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AN ASSYRIAN LAW CODE

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I

TWENTY YEARS AGO, the French expedition excavating at Susa under the direction of M. Jacques de Morgan discovered the magnificent diorite block—about eight feet high—containing on its two sides the famous Babylonian Code of the Babylonian king Hammurabi (2123–2081 B. C.) which since its first publication by Professor Vincent Scheil¹ has been the subject of constant study by Assyriologists as well as by students of the history of law.² The discovery of this code in almost perfect condition—except for some columns intentionally polished off by the vandal Elamitic conqueror³ who carried the Code as a trophy of war from Babylon to Susa and had no doubt intended writing an inscription glorifying himself on the erased portion⁴—was heralded at the time as one of the most important contributions to our knowledge of social conditions and of legal practice in Babylonia during the second millennium B. C. What Hammurabi did was to codify existing laws and to prescribe methods of judicial proce-

¹ *Mémoires de la Délégation en Perse*, Vol. 4 (Paris 1902).

² Despite the subsequent translations into English and German by Johns, Harper, Rogers, Winckler, Peiser, Müller, Ungnad and others, a new translation, embodying the results of detailed investigations, correcting erroneous readings, filling up gaps and giving a more accurate rendering of the legal phraseology, is very much needed. New fragments of the Code on clay tablets are constantly turning up. So since the publication by Ungnad in 1909, of the 'Stele' text and of many Babylonian and Assyrian fragments on clay tablets (*Keilschrifttexte der Gesetze Hammurabis*), a large tablet found at Nippur has been published by Poebel, *Historical and Grammatical Texts* (University of Pennsylvania Museum—Babylonian Section, Vol. 5, Philadelphia 1914), No. 93, a fragment by Clay in *Miscellaneous Inscriptions in the Yale Babylonian Collection* (New Haven, 1915), No. 34, and four fragments by Schroeder in his *Keilschrifttexte aus Assur Verschiedenen Inhalts* (Leipzig 1920), Nos. 7 and 190–192.

³ The gap can be partially filled out by fragments of copies of the Code on clay tablets.

⁴ The conqueror of Babylonia who carried off the trophy was probably Šutruk-Nahunte, c. 1100 B. C.

ture which, as the thousands of legal documents found in Babylonian mounds testify, continued in vogue for many centuries, aye to the end of the Babylonian period, though no doubt somewhat modified from time to time, as conditions changed.⁵ A discovery made by the German explorers of the mound of Kaleh-Shergat—the site of Assur, the earliest capital of Assyria⁶—and now published in a volume of texts from Assur,⁷ takes equal rank with the finding of the Hammurabi Code, for the German explorers found an Assyrian Code of Laws that appears to have been fully as extensive as the Code of Hammurabi, if not more so. Moreover, this Assyrian Code, we have every reason to believe, occupied the same position in the north that Hammurabi's Code did in the south. Through this new code we now have the means of instituting a comparison between legal procedure and enactments in Assyria with those prevailing in Babylonia. Each code reflects admirably the social conditions existing in the country for which it was drawn up; and the contrast between the spirit of the Hammurabi Code and that revealed in the new Assyrian Code is exceedingly instructive for a comparative study of the older and more refined Babylonian culture with the rougher and cruder civilization of militaristic Assyria.

Exactly when and on what part of the mound the portions of the Code recovered were found, the editor of the text, Dr. Otto Schroeder, does not tell us. It probably formed part of the extensive library archive discovered at Assur, of which the six volumes of religious texts⁸ published by Dr. Erich Ebeling give us hundreds of specimens. This archive is considerably older than the great library gathered by King Ashurbanapal (668–626 B. C.) and discovered by Layard in the ruins of the king's palace

⁵ Hammurabi's Code itself gives evidence of modification in the application of legal principles to changing conditions. See Jastrow, 'Older and Later Elements in the Code of Hammurabi' (*JAOS* Vol. 36, pp. 1–33).

⁶ Excavations were carried on at Kaleh-Shergat by the German Orient Society from 1903 till the spring of 1914. The same society excavated the mounds covering the site of Babylon and other mounds in the south from 1899 till the spring of 1917, when the definite advance of the British troops into Mesopotamia compelled the abandonment of the work.

⁷ Otto Schroeder, *Keilschrifttexte aus Assur Verschiedenen Inhalts* (Leipzig 1920, being the 35th volume of the *Wissenschaftliche Veröffentlichung der Deutschen Orient-Gesellschaft*), Nos. 1–6 and 143–144 and 193.

⁸ *Keilschrifttexte aus Assur religiösen Inhalts* (6 parts Leipzig 1915–1919). Several additional volumes are announced as in preparation.

at Kouyunjik—on the site of ancient Nineveh—about 65 years ago. Unfortunately, the Assyrian Code is far from being perfect. Only one tablet of the series which comprised the laws is in a good state of preservation, though even this tablet, comprising eight columns—four on the obverse and four on the reverse with about 100 lines to each column—contains some serious gaps, and many of the lines are only partially preserved. A second tablet, likewise of eight columns but less well preserved, furnishes us with 18 laws additional to the 55 to be distinguished in the other tablet, but of the rest of the Code we have only fragments—seven in all—in Dr. Schroeder's volume.⁹ The two large tablets—Nos. 1 and 2 of Schroeder's edition—evidently belong to the same series, and since text No. 1 contains the date, and a part of the eighth column is uninscribed (for the reason that the text had come to an end), we may—provisionally at least—assume that this tablet is the last of the series. Text No. 2, therefore, represents an earlier tablet in the series. We are unable to say how many tablets the series in its complete form comprised. Judging from the detailed manner in which the laws are set forth in texts Nos. 1 and 2 as well as in the seven small fragments, it is easier to err on the side of underestimation than of overestimation. Text No. 1 is almost entirely taken up with laws in which women enter as the subject, though the variety of themes introduced is large. Text No. 2, so far as preserved, is confined to laws about fields and houses, and the treatment is equally detailed. If the Code covered as wide a scope as that of Hammurabi—and there is no reason to suppose that it did not—at least three more tablets must be assumed for the whole series. Since each tablet of 8 columns must have contained over 800 lines,¹⁰ we would thus have a series of over 4,000 lines as a minimum, but the series may well have consisted of considerably more than five tablets. Dr. Schroeder notes (Pl. 14) that there are traces of effaced characters in the lower part of the uninscribed portion of the eighth column. No doubt the name of the series was given and the number of the tablet in the series. Of the colophon, however, we have only

⁹ The more complete of the two large tablets is No. 1 in Schroeder's edition covering Plates 1–13; the other less complete tablet is No. 2, covering Plates 14–18 and the seven fragments are Nos. 3–6 (Pl. 18–21), 143–144 (Pl. 89) and 193 (Pl. 106 [obv.] and 107 [rev.]).

¹⁰ Text No. 1 comprised 828 lines.

the date, indicated, as usual in Assyrian documents, according to the eponym for the year in which the document was drawn up.¹¹ The name of the eponym in text No. 1 is only partially preserved, *Sa.....u.....*. Since no such name occurs in eponym lists that have come down to us, we can only conclude from the character of the writing, from the manner of writing words and from indications of language that the text dates from about 1500 B. C. A date before 1000 B. C. is made probable also from the occurrence of the old Assyrian name, Sarati,¹² for the sixth month in the colophon instead of the later Ululu, which is more common after 900 B. C., though the older names of months are occasionally met with even after that date. As for the seven smaller fragments, published by Schroeder, while there can be no doubt that they are parts of the same Code as texts Nos. 1 and 2, it is not certain that they all belong to one and the same copy. There were no doubt several copies in the archive discovered at Assur; and judging from the greater length of the lines, Nos. 6 and 143 and 144 may represent parts of a second copy. On the other hand, none of the fragments duplicate any of the preserved portions of texts Nos. 1 and 2, nor can we fit any of the fragments into the gaps in these two texts. For the present, we must, therefore, leave the question as to the relationship of the seven fragments to the two large tablets in abeyance. It is to be hoped that more fragments of the Code will turn up in Berlin or in Constantinople, and one may venture to express the hope that the authorities of the British Museum or of the Louvre, now that, through the authority of their governments, access can be had to the collections of the Constantinople Museum, will have a search made for fragments of the Code and make them accessible to scholars through an early publication. No greater service could be rendered at present to Oriental scholarship than to supplement the publica-

¹¹ The years of a king's reign were drawn up in lists prepared by the scribes to act as a guide in fixing dates. The king himself was the eponym (*limu*) for his first year, but each succeeding year had a different eponym after whom the year was dated. It is, therefore, only in the case that we have the list of all the eponyms for any reign that we can fix accurate dates for Assyrian documents. See Rogers, *Cuneiform Parallels to the Old Testament* (New York 1912), pp. 219-238, now to be supplemented by texts Nos. 19-24 of Schroeder's volume; and perhaps also No. 16.

¹² Written Sa-ra-a-ti (cf. VR 43, 32 occurring also in Cappadocian tablets), and the day appears to be the second.

tion of the German Orient Society, if happily some portions of the Code should have found their way to Constantinople, to which centre apparently all the finds made at Assur were shipped before the division was made with the Berlin Museum. German scholars can no doubt be depended upon to make a further search for fragments in the share of the tablets that were assigned to the Berlin Museum.

II

Too much praise cannot be bestowed upon the authorities of the German Orient Society for placing such portions of the Code as have been identified at the disposal of scholars, even before the appearance of the translation and interpretation which the editor, Dr. Otto Schroeder, announces as in preparation. The full credit to be given to him for his *editio princeps* will not be diminished if meanwhile independent translations of the Code published by him should be made by others. The importance of the Code for our knowledge of social conditions in ancient Assyria, as well as for purposes of comparison with the Hammurabi Code and for the fragments that we have of a Sumerian Code, forming the prototype for the compilation made by the scribes of Hammurabi,¹³ not only justifies an immediate translation into English, but makes it desirable that independent renderings should be made accessible to those interested in the ancient civilization of Mesopotamia and to students of the development of law and of legal institutions and procedure. The Code fairly bristles with difficulties, and it will be by the combined and independent efforts of many scholars only that we shall be able to reach a definite interpretation, and to solve the difficulties inherent in the many new terms revealed by the Code, in the complicated syntactical constructions as well as in the strange verbal and noun forms encountered.

¹³ The credit belongs to Professor Clay of having discovered and published the first fragment of such a Sumerian Code, forming No. 28 of the texts gathered by him in his splendid volume *Miscellaneous Inscriptions in the Yale Babylonian Collection*. Two further fragments in the collection of the University of Pennsylvania Museum were published by Dr. H. F. Lutz in his volume of *Selected Sumerian and Babylonian Texts* (Philadelphia 1919) Nos. 101 and 102.

Before giving my translation of texts Nos. 1 and 2,¹⁴ to which I have added notes, restricted to the most essential explanations, it may be useful to summarize the general character of the Code.

III

It is probably fair to assume that the new Assyrian Code represents a codification of existing usage in legal decisions and procedure at the time of the codification, as is the case with the Hammurabi Code. We may, therefore, judge both Codes by the spirit which breathes through them. From this point of view, the Assyrian Code although half a millennium later than Hammurabi's compilation reveals a harsher and cruder aspect which crops out more particularly in the frequency of punishments that stand in no logical association with the crime but are either intended to humiliate an offender or to inflict bodily torment, due to the survival of the primitive (though natural) spirit of vengeance for an injury or wrong. Among such punishments we find with nauseating frequency the cutting off of the ear or the nose or both, or boring the ear and mutilating it, or mutilating the entire face, lashes varying in number from 20 to 100 blows, castration¹⁵ in two instances, public exposure by taking an offender's clothes away, and in one case impalement, to be carried out even on a dead body.¹⁶ Now some of these punishments likewise

¹⁴ Of the seven fragments, I have contented myself—at the close of this article—with a summary of the contents so far as this can be determined. In the case of one of the larger fragments, No. 6, it is possible to restore portions of four laws with some certainty, but not without some conjectures that cannot at present be confirmed.

I wish to acknowledge valuable aid received from my friend, Charles H. Burr, Esq., of the Philadelphia Bar, in selecting the proper legal terms, and who placed his profound and accurate legal knowledge at my disposal for unraveling some of the intricacies in the Code. I also owe to Drs. Chiera and Lutz some suggestions made in the course of our study of the Code in the Assyrian Seminar of the University of Pennsylvania.

¹⁵ The term used occurs in the Code for the first time—but one may feel quite sure that the proposed explanation (see Note 64 to § 14 of Text No. 1) is correct.

¹⁶ Text No. 1 § 51, the case of a woman who by malpractice brings on a miscarriage. Besides being impaled she is to have no burial—the most horrible curse from the Babylonian-Assyrian point of view, and even if she dies under the illegal operation, the impalement is to be carried out on the corpse which is to remain unburied.

occur in the Hammurabi Code, but with much less frequency—in itself an indication of the growth of social refinement. There is only one instance of whipping as a punishment in the Hammurabi Code, viz.: in the case of a freeman striking another (§ 202). The offender receives 60 lashes with an oxtail and, as is added, ‘in public’, to show that humiliation as well as bodily torment was intended. Impalement is imposed as a punishment in the case of the woman (§ 153) who conspires for the death of her husband. Cutting off the ear is prescribed as a punishment (a) for the slave who strikes a freeman (§ 205) and (b) for the slave (§ 282) who repudiates his owner. Castrating an offender or removing his or her clothes does not occur; and it is perhaps significant also of the difference in the relations of the populace to the ruler (or to the government as we would say) in the south from those prevailing in the north, that forced labor which is a most frequent punishment in the Assyrian Code—called ‘service of the king’ and generally for one month, imposed for every variety of offenses—is entirely absent from the Hammurabi Code. Even more significant as illustrating the divergent spirit of the two codes is the observation to be made that bodily punishments in most instances in the Hammurabi Code stand in some logical association with the crime, whereas in the Assyrian Code such association is exceptional. According to the Hammurabi Code an offender’s fingers are cut off in four instances (a) in the case of a son striking his father (§ 195), (b) branding a slave without the consent of the owner (§ 226), (c) stealing from a field which one has been hired to cultivate, (d) the case of a physician who by an operation brings about the patient’s death or destroys the patient’s eye (§ 218). In all these cases, the punishment is prescribed on the principle that the hand which did the deed should be mutilated; and even the still harsher punishment, prescribing that the breasts of a wet-nurse are to be cut off (§ 194), who substitutes a child for one entrusted to her care that has died, betrays this association. In the Assyrian Code—so far as preserved—there are only two instances (No. 1, §§ 8–9) of such connection. The woman who assaults a man—‘stretches out her hands’, as the phrase runs—and injures him, has her finger cut off, and *vice versa* if the man assaults a woman. In further association between the crime and the punishment, we find that the man who in a brawl bites a woman has his lower lip chopped off. The punishment falls on the hand or on the lip that com-

mitted the deed. Outside of these instances bodily punishments in the Assyrian Code are imposed without any association with the crime committed.

Another feature of the Code of a general character is the cruder method of judicial procedure in comparison with the Hammurabi Code. The constant formula 'they seize him (or her) and determine his (or her) guilt' shows to be sure the existence of an established court which tries an offender, but the phrase is also applied (Text No. 1, § 14) to individuals. Witnesses (§ 11) may 'seize' an adulterer and put him to death, which is clearly a survival of an age in which punishment was imposed by individuals or by any body of citizens. Besides such instances of 'lynch law', recognized as legitimate,¹⁷ we have the frequent phrase, 'he may do as he pleases', applied to the husband or father in the case that his wife or his daughter has committed an offense. We actually find the husband authorized to impose punishment on his wife (Text No. 1, § 3) and, what is more, the same punishment that he imposes upon his wife is meted out to the one who is an accessory to a crime. The husband is free either to cut off his wife's ear in case of theft or not to do so (Text No. 1, § 4). He may kill her or not if he discovers her with another man (Text No. 1, § 14); and equal liberty is given to him in the treatment of his daughter who has committed an offense.

All this points quite clearly to the existence of less settled conditions in the north during the second millennium B.C., in contrast to what one finds in the Hammurabi Code, which does not introduce any such phrase as 'he may do as he pleases'. It assumes throughout judicial procedure by a recognized officially constituted tribunal which pronounces the verdict and—apparently—is the sole body to authorize the carrying out of its decrees.

Wife and daughters in the Assyrian Code are regarded entirely from the early point of view as forming part of the possessions of a man, over whom he has full authority. Whereas the Hammurabi Code in theory still recognizes this relationship, in practise the many laws bearing on the relationship of husband to wife, and of father to children, tend towards curbing the authority of the husband and father, as the laws dealing with slaves and with debtors tend to reduce the arbitrary power of the master over

¹⁷ It is said (Text No. 1 § 14): no guilt attaches to those who thus kill an adulterer.

his slaves and of the creditor over his debtor. In the Assyrian Code, divorce is treated in a single paragraph (§ 36) which gives the husband the choice—according ‘as his heart moves him’, as the phrase runs—to give his wife something when he dismisses her or to send her away empty-handed. The Hammurabi Code has quite a number of restrictions to such an arbitrary procedure.

The assumption throughout the Babylonian Code is that a man divorces his wife either because she is childless or because of some charge against her. In the former case it is provided (§ 138) that the marriage settlement and dowry be returned to the wife. If there was no marriage settlement, the husband gives his wife 60 shekels of silver on divorcing her (§ 139). She is not sent away ‘empty-handed’. If there are children (§ 137), the divorced wife receives her dowry and sufficient maintenance to rear her children; and upon their reaching the age of majority, she is given a share of her former husband’s estate equivalent to the portion of one son and is free to marry whom she chooses. The husband is prohibited (§ 148) from divorcing his wife because she has become afflicted with disease. He must keep her and support her in his house as long as she lives, but if she prefers to live elsewhere, she receives her dowry. Only in case there is a definite charge of neglecting her husband and her household, of being a ‘gad-about’, is she sent away empty-handed (§ 141). Moreover, the wife has a right to bring a charge of neglect or of improper conduct against her husband, and if the charge is established (§ 142) she recovers her dowry and goes to her father’s house.

It is in keeping with the general attitude toward the wives and daughters as the property of the husband and father that the wife and daughter can be sold or pledged for debt to a creditor. The Hammurabi Code (§ 117), while recognizing the right, changes the transfer to a limited indenture for three years, and provides that ‘in the fourth year they (wife, son and daughter) must be given their freedom’; and as a further provision, dictated by humane considerations, the master who sells a female slave who has born him children for debt, must ransom the woman (§ 119). There is no time limit to the pledging of a member of a man’s household in the Assyrian Code. On the other hand, it is precisely in connection with this subject, that we find the newly discovered code striking a higher note. It is provided (Text No. 1, § 47) that a creditor who holds his debtor’s daughter for

debt cannot hand her over to a third party without the consent of the father. In case the father is dead, the opportunity must be offered to the brothers to redeem their sister and a period of one month must be allowed to any brother who is desirous of doing so. As a further protection to the unfortunate daughter, it is provided that if the man who holds her for her father's debts treats her badly (§ 38) she may be rescued by any one, who, however, must pay the full value of the girl to the creditor, in order to marry the girl.

The unquestionably harsher aspects of the Assyrian Code as a whole in comparison with the Hammurabi Code must not blind us to the tendency to be noted towards protecting those whose position is dependent upon others. So, *e. g.*, Text No. 1, § 45 imposes on the sons to support their widowed mother in case the father has failed to make provision for her; and it is added they should do so tenderly as one treats 'a bride whom one loves'. If she happens to be a second wife, and has no children of her own, then the duty of support falls upon the children of the first wife. She is to have a home with one of the children.

The woman abandoned by her husband who has deliberately gone away or who has been captured while in government service is taken care of. The duty is imposed on her to remain faithful to her husband for a term of years—two (Text No. 1, § 44) or five (Text No. 1, § 35) according to the conditions of the desertion—and if the husband has left her without maintenance, the woman can appeal to the state to step in (Text No. 1, § 44), which makes over to her during her husband's absence the 'field and house', as the phrase runs, for her support. If, however, she marries within the interval, her husband on his return can claim his wife, while the children born to the second husband belong to the latter.

From the sociological point of view the new code is of extraordinary interest. It reveals a state of society in which sexual immorality had become sufficiently rampant to necessitate the large number of paragraphs—no less than 14 in the preserved portions of the Code—that deal with the various degrees of illicit and unnatural sexual intercourse and the varying circumstances under which it takes place. The 'procuress' appears by the side of the 'adulterer'. The harlot was a fixed institution (Text No. 1, §§ 39 and 50). Sodomy and malpractice find a place in the Code (Text No. 1, §§ 18, 19 and 51). On the other hand

in the regulation of property rights we find comparatively advanced legislation to prevent encroachment on a man's domain. Text No. 2—so far as preserved—deals largely with the regulation of property rights. The one who removes boundaries is severely punished, and a distinction is made between a 'large' and a 'small' trespass of this character (Text No. 2, §§ 8 and 9). Light is thrown on agricultural methods by provisions against using property not belonging to one for digging a well, for planting orchards, or for making bricks (Text No. 2, §§ 10, 12-15). Irrigation is regulated (Text No. 2, §§ 17-18) and the division of an estate carefully provided for (Text No. 2, §§ 1-5). Of special interest is the elaborate procedure for the purchase of an estate (Text No. 2, § 6) for a proclamation to be made three times, calling upon all who have a claim on an estate to appear before the recorder and deposit their claims, in written form. A month's time is allotted for such notice and the purchase is made in the presence of a group of officials which includes a representative of the king, the surrogate, the city scribe, the recorder, the prefect, and three magistrates.

Another feature, meriting special notice, are the provisions for the regulation of the dress of women when appearing in public (Text No. 1, § 39). The paragraph in question enables us to trace back the veiling of women—still so widespread in the Near East—to the second millennium B. C.; and the point of view from which veiling and covering of the head (by which a complete enveloping is meant) is regarded, is instructive for the light that it sheds upon the origin of the custom. Wives and daughters are to be veiled or to have their heads covered, or both, to mark them as the property of the husband and father, and as a warning to others to keep their hands off. Hence the hierodule who remains unmarried—who belongs to the temple and not to any man—is to be unveiled, and likewise the harlot, because she belongs to *any* man. A severe punishment is imposed upon a harlot who appears veiled in public, as also upon the one who sees her thus disguised and fails to report her 'to the palace'. The original purpose of the veiling shades over into the factor of social distinction and accordingly slave girls are likewise to go unveiled. This gradual change in the custom is again of special interest, because in other respects, the Assyrian Code is marked rather by the absence of class distinctions, in contrast to the Hammurabi Code which is full of special legislation for the

'plebeians'¹⁸ and 'slaves' by the side of 'freemen' who form a species of aristocracy. It is of course possible that in the missing portions of the Code the same distinctions were introduced, but their absence in the preserved portions is at least worth noticing. Society both in Babylonia and Assyria had passed beyond the stage of recognizing the 'clan' or kinsman as representing a social unit at the time when the two Codes now at our disposal were compiled, and it may well be that the further stage of a sharp division of classes was reached in the south long before it made its appearance in the north.

Lastly, the new Code is of interest because of the additions that it furnishes to legal phraseology. Besides the terms above noted, we encounter here for the first time the term for debtor (*habbūlu*) as against *bēl hūbulli* for creditor—already known to us. We have the distinction between the *amirānu*, 'the eye witness', and the *išmeānu* 'the one who hears a report'.

The person pledged for debt (*tadinānu*) and various officials for land transactions enter upon the scene. The term for the raising of loans (*kīdu*) on deposits or on property is another interesting addition. Lying outside the strictly legal province, we have also the many new grammatical forms which show a wider divergence in the speech of the north during the second millennium from that of the south than we had hitherto suspected.¹⁹

Reserving a further and more detailed study of the Code in comparison with the Hammurabi Code, in which the laws common to both will be placed in parallel columns and which will further reveal the different social conditions prevailing in Babylonia—so essentially a cultural power—as against those in a militaristic state like Assyria, let us now turn to the translation of the Code itself.

¹⁸ See C. H. W. Johns on these distinctions in his valuable work on *The Relations between the Laws of Babylonia and the Laws of the Hebrew Peoples* (London 1914) p. 8. We owe to Johns the correct interpretation of the term Maš-En-Kak = *muškēnu* as the 'plebeian' in the Hammurabi Code.

¹⁹ The grammar of the Code merits a detailed study which will no doubt be undertaken by some Assyriologist. As a single illustration, we may call attention to the constant use of the ending *ūni* in the plural of verbs, as in classical Arabic.

1

(Badly preserved. Treats of the case of a woman—the wife of a man or a man's daughter—entering a temple apparently to make restitution for something that she has stolen. The part dealing with the punishment is too mutilated to be made out.²⁰)

2

If a woman, be she the wife of a man or a man's daughter, does not confess²¹ the theft or under pressure²² makes restitution, that woman bears her sin²³; on her husband, her sons and her daughters she has no claim.²⁴

3

If a man is sick or has died (and) his wife steals something from his house, whether she gives it to a man or to a woman, or to anyone whomsoever, the wife of the man as well as the receivers shall be put to death; or if the wife whose husband is living steals

²⁰ The law is the first of a group dealing with theft committed by a woman, who as wife or daughter is a man's property. The Hammurabi Code deals with theft from a temple—and to which it adds 'or from a palace'—in §§ 6-8. It decrees that both the thief and receiver of the stolen property, are put to death, but the severity of the old law is modified by the exception (§ 8) that in case the stolen object is an ox or ass or sheep or pig, the thief if a freeman is to restore thirty fold the value of what he took, and if he be a plebeian ten-fold; and only in case he have not the wherewithal to make restitution is he put to death. The Hammurabi Code has no special laws with regard to women who steal, from which we may conclude that in §§ 6-8 the conventional phrase beginning 'if a man,' etc., applies to women as well.

²¹ Text has *ta-tak-ti-bi* = *taktibi* with a redundant initial syllable, for which there are several examples, for example, *ta-at-ta-al-pa-at* (col. 1, 83) = *talpat*; *ta-(at)-ta-aš-bat* = *tašbat* (Col. 3, 52).

²² *Mi-ki-it pi-e*, the ideographic writing for which *Ka-ta Šub-ba* (II Rawlinson 39, 13a-b) shows that it is to be rendered 'falling of the mouth', in contrast to *Ka-ta E=ši-it pi-i* (II Rawlinson 12a-b), 'utterance'. 'Falling of the mouth' cannot mean 'silently', for which we have 'closing of the mouth' (= *si-kur pi-i*, ib. 11b). I take the phrase to mean that the stolen property is restored under pressure.

²³ I. e., she is guilty, *a-ra-an-šá ta-na-aš-ši*, is a parallel to the Hebrew phrase in the Priestly Code *nāsā ḥēṭ* 'bearing sin', e. g., Lev. 19. 17; 22. 9; 24. 15; Num. 9. 13, etc., in the sense of being guilty.

²⁴ *la-a i-ḫar-ri-i-bi*, 'she shall not approach', i. e., she has no claim on any members of her family. Cf. § 26, the husband 'shall not approach' the house of his father-in-law, i. e., has no claim on it, if at the time of divorce from his wife, she is living in her father's house.

from the house of her husband, whether she gives it to a man or to a woman or to any one whomsoever, the man seizes²⁵ his wife and imposes punishment²⁶; and on the receiver of the stolen property which she has given away, (the same) punishment is to be imposed²⁷ that the husband imposes on his wife.

4

If a male slave or a female slave receives anything²⁸ from the wife of a man, the nose and the ear of the slave, male or female, shall be cut off, and for the stolen property²⁹ full restitution must be made.³⁰ Either, the man cuts off his wife's ear, or if he releases her,³¹ and does not cut off her ear, then also (the ear) of the slave, male or female, shall not be cut off, and they need not make restitution for the stolen property.

5

If a man's wife steals something from a man's house and through someone else it is restored, the owner of the stolen property must

²⁵ *ú-ba-ar* from *ba'āru* 'catch', as in the phrase 'they seize him and determine his guilt,' used throughout the Code for arresting a person and convicting him of a crime.

²⁶ *hi-i-ta* literally 'sin', but here as throughout the Code for 'guilt' (like the Hebrew *ḥēl*) and also 'punishment'. This authority given to the husband to 'seize' his wife and impose punishment on his wife (as on his daughter) in certain cases is a survival of primitive conditions when punishment was meted out by individuals and not by a judicial tribunal. See above, and parallels in Post, *Afrikanische Jurisprudenz*, Vol. 2, p. 140 *seq.* Note also that the punishment meted out to the receiver follows the arbitrary one that the man imposes on his wife.

²⁷ Generally the impersonal 'they' with plural of the verb is used in the part of the law announcing the decision. It seems preferable to render this by the use of the passive, since the code does not tell us, except in certain specific instances, who actually carries out the punishment. It is interesting to note that here as in other instances, e. g., § 4, the accessory to a crime receives a punishment equal to that of the main offender. Modern law provides that the accessory can never receive punishment in excess of what is imposed on the main offender.

²⁸ I. e. stolen.

²⁹ *šur-ka*, the 'stolen' property.

³⁰ *ú-mal-lu-ú*, literally 'they fill out'.

³¹ *ú-úš-sar*, used throughout the Code in the sense of 'letting one go'. A synonym is *paṭāru* 'redeem', e. g., § 5, though this verb is also used as the Biblical equivalent in the sense of 'buying off', e. g., § 47.

swear that when it was taken 'the stolen property was in my house³².' If the husband chooses he may restore the stolen property and redeem her (i. e. his wife)³³ and cut off her ear, but if her husband does not wish to redeem her, then the owner of the stolen property may take her³⁴ and cut off her nose.

6

If a man's wife puts a pledge³⁵ in pawn³⁶, the receiver must surrender it as stolen property.³⁷

7

If a woman stretch out her hands against a man, they seize her. She must pay 30 manas of lead and she receives 20 lashes.

8

If a woman in a brawl injures a man's testicle, they cut off one of her fingers; and if the man engages³⁸ a physician and the

³² I. e., he must identify the stolen property.

³³ *i-pa-aṭ-ṭar-ši*, a synonym of *uššuru* 'let her go' (above § 4). The implication in the Assyrian Code is that a woman who steals something from a man's house (not her husband's) forfeits her liberty, unless her husband makes good the theft.

³⁴ I. e., as his property, and presumably either to sell her or to reduce her to servitude.

³⁵ *ma-aš-ka-at-ta* (from *šakānu*) is 'something put on deposit'; it occurs again in Text No. 6 obv., 11, and as in our passage with *ina kīdi*, and finds its equivalent in the phrase of the Hammurabi Code, § 7 *ana maššarūtīm* 'for safe keeping'. This law provides that the receiver of stolen property is put to death, even though he only accepted it for safe keeping. As the accessory to the crime he receives the same punishment as the main offender.

³⁶ *i-na ki-i-di*. According to *Cuneiform Texts* XXVII, Pl. 12, 11, *ki-di* is a part of the palace, but our passage, as well as § 43, where the phrase is again met with, leaves no doubt that *ina kīdi* may designate the raising of money on some object of value—real or movable estate. It is therefore the equivalent to our 'in pawn'. The *kīdu* of the palace may therefore be a storing place of some kind.

³⁷ The woman is punished according to the law set forth in the previous paragraphs.

³⁸ *ur-tak-ki-is* from *rakāsu* 'to contract', from which we have *riksu* and *riksātu* used in the Hammurabi Code and in the Assyrian Code, as well as in legal documents for a 'contract'.

other testicle of itself³⁹ is destroyed, compensation⁴⁰ shall be offered; or if in a fight the second testicle is (also) crushed, the fingers⁴¹ of both hands they mutilate.⁴²

9

If a man stretches (his) hand against the wife of a man, treating her roughly⁴³ (?), they seize him and determine his guilt⁴⁴. His fingers are cut off. If he bites her, his lower lip with the blade⁴⁵ (?) of a sharp (?) axe is cut off.

10

(Covering Col. I, 97 to II, 13.)

(Deals with murder, but the text is too fragmentary to be translated.)

11

If a man's wife goes out into the highway (and) a man seizes her, without even proposing intercourse with her⁴⁶ and not giving her the chance to protect herself,⁴⁷ but seizes her by force and

³⁹ *il-ti-ša = ištiša*, occurring again, col. 3, 56 (§ 23) in the sense of 'by itself', independently, etc.

⁴⁰ I read [*mu*]-*ri-im-ma tar-ti i-ši*. *Murim* from *rāmu* 'offer' or 'grant'.

⁴¹ I supply [Rit-Lal] *Meš=rittē* (like Hammurabi Code §§ 195, 218, 226, 253) or perhaps we are to read [*Šú-si*] *Meš=ubanāte* 'fingers'.

⁴² *i-na-bu-lu*.

⁴³ *ki-i bu-ri e-pu-us-si*. The context points to some violent assault, like scratching or tearing the flesh. *Būru* ordinarily means a 'young animal', which however is hardly in place here.

⁴⁴ *ub-ta-e-ru-ú-uš uk-ta-i-nu-ú-uš*, the standing phrase throughout the Code for what we call arrest and trial. See above, p. 8. From the same stem *ba'āru* 'catch', we have in the Hammurabi Code the official *Šú-Ħa = ba'iru* as the 'constable' (§§ 26-28, 30 and 32, 36, 37, etc.), while *uktin* 'to fix the guilt' occurs in §§ 1-3 and 127 of the Hammurabi Code.

⁴⁵ [*me*]-*ri-im-ti*, the meaning of which is to be deduced from the context.

⁴⁶ *la-a ni-ik-ki-me iḫ-ti-bi-a-aš-še* 'does not say to her *nikkime*', the latter term being the proposal to the woman to give herself to the man. The underlying stem *nāku* was recognized many years ago by Oppert as denoting sexual intercourse. It occurs in the Code in a variety of verbal forms; also the noun form *naikānu* for the ravisher or adulterer. See Meissner, *Assyrische Studien*, 4, p. 10 and the passages there quoted.

⁴⁷ I. e., there is no attempt on the part of the man to try to persuade the woman, but he uses force, while she makes no advances on her part.

rapes her,⁴⁸ whether he merely overpowers⁴⁹ the man's wife, or actually has intercourse with her,⁵⁰ the witnesses⁵¹ may seize him and put the man to death. No guilt⁵² attaches to the woman.

12

If the wife of a man leaves her house to meet a man at a rendezvous⁵³ and he rapes her, knowing that she is another man's wife, then they also⁵⁴ put the wife to death.

13

If a man has intercourse with a man's wife, whether in an interior⁵⁵ (?) or on the highway, knowing that she is another man's wife, they (mutually) agreeing⁵⁶ to do so in the manner customary between a man and his wife⁵⁷, the man is adjudged to be an adulterer.⁵⁸ But if he did not know that she was another

⁴⁸ *il-ti-ak-ši* I, 2 from *nāku* as above.

⁴⁹ *ik-šú-du-uš* 'conquers her'.

⁵⁰ *i-ni-ku-ú-ni*.

⁵¹ *še-bu-tu*, who are called in to testify to the assault. From the interesting circumstance that the word *šebutu* means both 'elders' and 'witnesses', one is tempted to conclude that the 'witness' in Babylonian and Assyrian law was a 'professional' witness. The 'elders' in early society would form the natural tribunal; and they would be the ones called in to witness a legal document or to be present at the trial of an offender and to hear testimony in regard to the offender, even though they may not have actually been present at the commission of the crime. From this point of view, we can understand the extension of the term 'elder' to the very general sense of 'witness', and its still later use without reference to any professional status.

⁵² Or 'punishment'. The term is again *hi-i-ta* as above, note 26.

⁵³ *a-šar us-pu-ú-ni* 'a place where (people) gather', i. e., the woman deliberately goes out to meet a man.

⁵⁴ *Ū*, the conjunction which as often has the force of 'also'. The law assumes that the man—as in §11—is likewise put to death.

⁵⁵ *bīl al-tam-me*—a new word which from the context must designate an interior in contrast to 'highway'. It is quite possible that a bed-chamber or even a brothel is meant.

⁵⁶ Literally 'saying'.

⁵⁷ I. e., as though they were man and wife. Note (as in § 22) the elaborate legal phraseology to prove that it is a genuine case of adultery.

⁵⁸ *na-i-ka-na*. See above, note 46. The punishment being death for the man according to the principle involved in § 11, it was not considered necessary to specify it again.

man's wife, the adulterer goes free.⁵⁹ The man seizes his wife and can do what he pleases with her.⁶⁰

14

If a man discovers his wife with a man,⁶¹ they seize him and determine his guilt, and both of them are put to death. There is no guilt⁶² because of him. But if he is caught and either before the king or before judges is brought, they (i. e., the judges) seize him and determine his guilt. If the man has already put his wife to death, then the man⁶³ is also put to death. If he has cut off his wife's nose, the man (i. e., the adulterer) is to be castrated⁶⁴ and his whole face⁶⁵ mutilated.⁶⁶

⁵⁹ *za-a-ku*, the regular term in this Code as in the Hammurabi Code for acquittal, though also used in the wider sense of being free from any further obligation, as e. g., in text No. 2, § 6 (col. 3, 47), as well as to indicate that something is at the 'free' disposal of another, e. g., § 37 (col. 5, 25).

⁶⁰ I. e., the wife is turned over to the husband and he imposes punishment, as in § 3, according to his pleasure.

⁶¹ Literally: 'he takes the man away from his wife'.

⁶² The addition of this phrase *a-ra-an-šú la-aš-šú*, 'there is no guilt because of him', shows that in this case, 'they' are not the judges, but individuals—perhaps witnesses called in by the husband—who, as we would say, lynch the man after ascertaining that he is guilty, i. e., that he knew that it was another man's wife.

⁶³ *a-i-la* another form for *amēlu* (pronounced *awēlu* 'man'). See Muss-Arnolt, *Assyrian Dictionary*, p. 3a.

⁶⁴ *a-na šar-ri-še-en ú-tar* (see also § 19), more literally 'he is made an eunuch'. I owe to my colleague, Professor Montgomery, the happy suggestion that we have in the word *šaršēn* the name for the 'eunuch', corresponding to the Hebrew *sarīs*, which is no doubt taken over from the Akkadian. The meaning fits the context, and the punishment of castration is appropriate for the adulterer caught in the act in case the husband has already taken the law into his hands by cutting off his wife's nose. It is even more appropriate as a punishment (§ 19) for the one who is guilty of sodomy. These are the only two occurrences of the punishment in the Code; and it is thus interesting to be able to trace the custom of castration to so early a date. Professor Montgomery's suggestion disposes of Schroeder's view (in the brief description of the Code, page viii) that *šaršēn* means 'prison'. There is no evidence for imprisonment as a punishment either in Babylonia or Assyria, whereas, as is well known, the eunuch figures frequently among the escort of the king on Assyrian monuments. The form *šaršēn* with the formative *ēn* (by the side of *ān*) is proper for the designation of a class; and now that the word by itself has been encountered in an Assyrian text, there is no longer any reason to question that the *rab šá-riš* mentioned in the cuneiform inscriptions is the 'chief eunuch'. Furthermore, the explanation of *ša-riš* as though com-

(The rest of the paragraph—four lines apparently—is broken off.)

15

If a man [violates]⁶⁷ another man's wife, her mouth⁶⁸ there is no guilt attaching to the man. The husband can impose punishment on his wife according to his pleasure. But if by force he has violated her, they seize him and determine his guilt, the punishment being the same as that imposed upon the man's wife.⁶⁹

16

If a man says to another, thy wife has been raped,⁷⁰ and there are no witnesses, they bind him (i. e. the accused) in fetters and take him to the river.⁷¹

17

If a man says to his companion, whether in private or in a brawl,⁷² 'thy wife has been raped and I caught her', but it turns out that he could not have caught her, and the man actually did not catch her (in the act), he receives 40 lashes and must perform

posed of *šá* and *rīš* ('head'), still maintained by Zimmern, *Akkadische Fremdwörter*, page 6, is to be abandoned in view of our *šaršēn* which clearly points to a stem *šarāšu*. At the most, it might be claimed that *šá-rīš* is an etymological play upon the supposed meaning of *šaršēn*, but even this is unlikely and certainly an unnecessary supposition.

⁶⁵ I. e., ears and nose are cut off and possibly his eyes are put out. We have not actually encountered this method of punishment, except in the historical annals of Assyrian kings as meted out to the enemy.

⁶⁶ *i-na-ku-ru*, 'they destroy'.

⁶⁷ To be supplied. The half of the line is broken away.

⁶⁸ No doubt in the sense of 'consent.' The balance of the line is broken away. The context indicates that the woman gave herself to the man willingly.

⁶⁹ I. e., whatever the man would do to his wife, in case she were guilty, is done to the adulterer.

⁷⁰ *it-ti-ni-ik-ku*.

⁷¹ I. e., for an ordeal, to test the truth of the charge. The ordeal occurs again, §§ 23, 24; also in the Hammurabi Code §§ 2 (suspect of sorcery) and § 132 (suspect of adultery).

⁷² I. e., when others are present to hear what is said. It is rather characteristic of social conditions in Assyria, that the word for a 'fight', becomes a synonym of 'in public'.

one month's royal service. They summon him⁷³ and one talent⁷⁴ of lead he must hand over.

18

If a man in private spreads the report⁷⁵ about his companion that someone has had (unnatural) intercourse with him,⁷⁶ or in a brawl in the presence of men⁷⁷ says to him: 'Someone has had (unnatural) intercourse with thee and I caught thee (in the act),' whereas there was no possibility of this and that man did not catch him (in the act), he receives 50 lashes, and must perform one month's royal service. They summon him, and he must hand over one talent of lead.

19

If a man has (unnatural) intercourse with his companion,⁷⁸ they seize him and determine his guilt. If he actually had intercourse with him, then he is castrated.⁷⁹

20

If a man strikes a man's daughter, so that there is a miscarriage,⁸⁰ they seize him and determine his guilt. Two talents and 30

⁷³ *i-ga-di-mu-uš* (also col. 2, 92), literally 'they bring him into the presence', i. e., of the court.

⁷⁴ 3600 shekels.

⁷⁵ *a-ma-ta iš-kun*.

⁷⁶ He accuses his fellow of sodomy. The same verb (*it-ti-ni-ku-ú-uš*) is used as in the case of rape and adultery.

⁷⁷ *Erem* (*meš*), literally 'soldiers', but frequently used for men in 'general'. The contrast is here as in § 17 between a private and a public statement.

⁷⁸ There can be no doubt that here and in the preceding law sodomy is meant. Through omen texts we learn of the varieties of unnatural intercourse that were known to Assyrians and practised by them. See the examples of such practices discussed by Meissner *Assyrische Studien*, 4 (*MVAG*, Vol. 12), pp. 11-13. Strangely enough, the prognostication in one case is favorable, to wit, that a man who succeeds at sodomy will become a leader.

⁷⁹ *a-na šá-ri-še-en, ú-tar-ru-uš*, i. e., 'they make him an eunuch', as above § 14, note 64.

⁸⁰ Literally 'she drops what is within her'.

mana⁸¹ of lead he must hand over; he receives 50 lashes and must perform one month's royal service.

21

If some man who is neither her father, brother nor son seizes a man's wife on the road,⁸² he must swear an oath that he did not know that she was a man's wife, and hand over 2 talents of lead to the husband.

(The continuation (Col. 3, 1-13) is mutilated. It set forth variant circumstances attending the assault, in which the woman shares the guilt. The river ordeal is provided—apparently for both—though they are not fettered (as in § 16). From the closing lines which read: 'When the man returns from the river, he is given the same punishment by the husband as the latter imposed on his wife,' we may conclude that the guilty wife, as in other instances (e. g. above §§ 3, 15, etc.) was punished by her husband. It would also appear that surviving a river ordeal was not regarded as complete vindication, but only proved that the man merited a milder punishment than death. Similarly in § 23.)

22

If a man's wife takes another man's wife into her house for sexual intercourse⁸³ and the man (i. e., the one into whose house the woman was taken) knew that it was another man's wife (and) had intercourse with her as with another man's wife, and in the

⁸¹ A total of 9000 shekels. This law finds a complete parallel in § 209 of the Hammurabi Code, which reads: 'If a man strikes a man's daughter so that she has a miscarriage, he shall pay 10 shekels of silver'. In the case of a woman of lower rank, the fine is only 5 shekels and in the case of a slave 2 shekels. If the woman dies, the fine is 30 shekels in the case of a woman of lower rank, 20 shekels for a slave, while in the case of the free woman, the *lex talionis* is put in force and the man's daughter is put to death. If we assume that the fine in lead is calculated according to the proportionate value between lead and silver, then 5400 shekels of lead = 10 shekels, would give us a proportion of 1 to 540. The fine however may have been considerably larger in Assyria.

⁸² The assumption is that any one who takes hold of a woman on the road and who is not closely related to her has designs upon her.

⁸³ *a-na ni-a-ki*.

manner customary between a man and his wife,⁸⁴ the woman is adjudged a 'procuress'.⁸⁵ But if no intercourse as between a man and his wife had actually taken place, then neither the adulterer nor the procuress have done anything.⁸⁶ They shall be released.⁸⁷ And if the man's wife⁸⁸ did not know (of the plot) and she entered the house of the woman, trusting the man's attitude towards her,⁸⁹ who had intercourse with her and if after leaving the house, she confesses⁹⁰ to having had intercourse, that woman is to be released—she is guiltless.⁹¹ The adulterer and the procuress are put to death. But if the woman does not confess, the husband may impose punishment on his wife as he pleases;⁹² and the adulterer and the procuress are put to death.

23

If the wife of a man in the face of her husband⁹³ and of her free

⁸⁴ Note again the redundancy of legal phrases (as above in §13) to make it certain that actual adultery had taken place, which in the full legal sense involves a knowledge on the part of the adulterer that he was acting with another man's wife, and that the act was fully consummated in the normal manner. Moreover, one of the main points in this law is to ascertain the guilt of the 'procuress'.

⁸⁵ *mu-um-me-ri-tu*—a new word, the meaning of which is certain from the context, and which sheds light on social conditions in Assyria. The underlying stem appears to be *amāru* 'surround', the *mummeritu* being the woman who 'enmeshes', i. e., the ensnarer. Cf. Prov. 7. 23.

⁸⁶ I. e., the man is not adjudged an adulterer, nor is the woman legally a 'procuress' if the intercourse has not actually taken place.

⁸⁷ The mere intent does not constitute a misdemeanor or a crime. The point of view in this law is consistently directed towards the wife as the husband's property. If no injury to the property has been done, there is no case.

⁸⁸ Namely, the wife who was brought into another man's house did not know of the plot.

⁸⁹ *ki-i pi-i kēnu amēli a-na eli-šá*—an interesting phrase, to indicate that she had no cause for suspicion.

⁹⁰ *taḫ-ti-bi*, 'says,' which may merely indicate that she reports the occurrence to her husband.

⁹¹ *za-ku-at* (as above § 13) literally—'free' of blame or guilt.

⁹² Again punishment meted out by the husband and according to his pleasure, as in §§ 3 and 13.

⁹³ So the phrase runs (*i-na pa-ni mu-ti-šá*) which appears to mean—as the Hebrew *liphnē* is often used—in spite of her husband, against his protest.

will⁹⁴ is carried off,⁹⁵ be it into any large city⁹⁶ or into a suburb,⁹⁷ where by appointment⁹⁸ she enters the house of an Assyrian,⁹⁹ and without the mistress of the house¹⁰⁰ stays (there), [or if his wife (?)]¹ has died, (but) the master of the house did not know [that it was]² another man's wife who [was taken]³ into his house, (and) [by stealth (?)]⁴ that woman was taken,⁵ then the master of the house⁶ whose wife in his [face] of her own accord [was carried off],⁷ shall take his wife. The wife of the man who as his wife through her fault⁸ was seized⁹—her ear they cut off; and if her husband so chooses, he (i. e., the adulterer) must give 3 talents and 30 mana of lead as her purchase price,¹⁰ or if he (i. e., the aggrieved husband) chooses, he may take his wife away.¹¹

But if the owner of the house knew that it was a man's wife who was taken into his house without the mistress of the

⁹⁴ *ra-ma-an-ša* 'willingly'.

⁹⁵ *tal-da-da-at* = *tašdadat* from *šadādu* 'drag'. In this same law we have (col. 3, 73) *tal-du-du-ú-ni*,—to be supplied also in line 54.

⁹⁶ *ālu am-me-e-im-ma* (see Muss-Arnolt, *Assyrian Dictionary*, p. 57b) in contrast to *ālu kur-bu-ú-ti*, 'suburb'.

⁹⁷ On the sign used for city in this combination, see Meissner, *Seltene Assyrische Ideogramme*, No. 540. It is clearly *ālu* with the plural sign to indicate the towns adjoining a city; literally, therefore, 'near-by towns'.

⁹⁸ *a-šar bīti ud-du-ši-i-ni*, literally: 'the place of a house fixed for her' or by her, i. e., at an appointed house.

⁹⁹ *bīti aš-šu-ra-ia*. See § 43 (col. 6, 40–41), where also an Assyrian man or woman is specified.

¹⁰⁰ *iš-tu bēlit bīti*, i. e., the mistress of the house is not there. There is no suspicion of any 'procuress' in the case.

¹ The text at the beginning of this line is defective. I suspect a reading like [*lu-u aššati*]-*šú miṭ-ṭa-at* 'or that his wife is dead', to account in some other way for the woman being in the house alone with a strange man. The traces as given by Schröder can hardly be correct.

² Supply *ki-i* according to the traces.

³ Supply [*uṣ-bu*]-*tu-ú-ni*.

⁴ Traces point to [*ina šu-ur-ki*]-*il-ti* from *šarāku* 'steal'.

⁵ Read *ta-ta-aš-bat*, with the same overhanging *ta* as in the two examples above given, § 2, note 21.

⁶ I. e., the aggrieved husband.

⁷ Read [*tal-du*]-*du-ú-ni* as below in line 73. See above note 95.

⁸ *il-ti-ša*, as above, § 8 note 39.

⁹ *uṣ-bu-tu-ni* here in the sense of 'being caught'.

¹⁰ I. e. 12,600 shekels. A certain ambiguity arises in these laws because of the constant change of subject in the succeeding verbs, but the context clearly shows that the adulterer may purchase the man's wife whom he has raped.

¹¹ I. e., the husband takes her back.

house,¹² he must pay three times the amount.¹³ And if he denies it and says that he did not know, they take him to the river;¹⁴ and if the man in whose house the man's wife was seized returns from the river,¹⁵ he must pay three times the amount. If the man whose wife in his face was carried off of her own accord, returns from the river,¹⁶ he is free¹⁷—the river (sc. ordeal) settles all for her.¹⁸ And if the man does not cut off the ear¹⁹ of his wife who in his face, of her own accord, had been carried off, he takes his wife back and imposes nothing further upon her.

24

If a woman is retained in her father's house²⁰ and her husband has died, the brothers of her husband may not divide²¹ (the estate) even though she has no son. Whatever her husband has voluntarily²² assigned to her, the brothers of her husband cannot annul²³; it is not to be included in the division. As for

¹² Clearly, the wife of the man into whose house the woman was taken is meant and who (according to line 48 above) had nothing to do with the crime. Instead of the sign for woman (Dam) I read Nin = *bēlit*, as in line 48, and supply *bīti* at the end of the line. A confusion between Dam and Nin is easily possible. The original probably has Nin.

¹³ I. e., of the purchase price as above given or 37,800 shekels in lead.

¹⁴ To submit to an ordeal as above, § 15.

¹⁵ I. e., survives the ordeal, by not being drowned, which survival apparently saved him only from the death penalty.

¹⁶ He also must submit to an ordeal, because of the denial of the charge that he has brought against his wife and her seducer.

¹⁷ *za-a-ku*.

¹⁸ *gi-im-ri-šá*, literally, 'all of her', i. e., the ordeal on the part of the two men decides her fate.

¹⁹ Which he has a right to do, as above (col. 3, 57) set forth. Schroeder's text by a slip has *aššat-su* 'his wife' (accidentally repeated because of its occurrence in the next line) instead of *uz-ni-šá* 'her ear'.

²⁰ A standing phrase to indicate that she is being supported by her father and does not live with her husband. The Hammurabi Code, § 142, likewise implies that the woman separated from her husband goes to her father's house.

²¹ I. e., the whole of the estate among themselves.

²² *dū-ma-a-ki*, a word occurring here for the first time, so far as I can see, and which is found again, Col. 3, 97 (§ 25) and 5, 22 (§ 37). The context makes it clear that it designates what her husband has of his own accord given to his wife during the time that she lived with him. I take the word from the stem *damāku*, 'to be gracious'.

²³ *hal-ku-ú-ni*, literally 'destroy'.

the balance of what the gods have provided²⁴ they are entitled to it.²⁵ They need not submit to a river ordeal or to an oath.²⁶

25

If a woman is retained in her father's house and her husband dies, whatever her husband has voluntarily assigned to her, if there are children, they may take it,²⁷ but if there are no children, she takes it.

26

If a woman is retained in her father's house, her husband may enter it (and) any marriage gift²⁸ which her husband had given

²⁴ A curious phrase, the meaning of which must be deduced from the context. It seems to be the equivalent of our 'what Providence has granted', though it may also have a more technical import.

²⁵ *ba-ar-ru i-lek-ki-û*. Literally: 'they take as seized.' The phrase would seem to indicate that the brothers of the deceased lay their hands on anything which was not explicitly given by the husband to his wife.

²⁶ The brothers need not submit to an ordeal nor swear an oath that they have not taken anything which belongs to the wife. They may settle the estate without further formalities, as handing in a sworn account and the like.

²⁷ I. e., a woman separated from her husband has no claim to the estate of her husband, if there are children. The widow is obliged to give up anything that he may of his own free will have given her during his lifetime. This is consistent with the law of divorce, as set forth in § 36. According to the Hammurabi Code (§ 150), the children have no claim after the death of their father on anything devised by him, by a duly sealed document, to his wife.

²⁸ *man-ma nu-du-un-na-a* used, as in the Hammurabi Code, §§ 171-172, to designate the present which the husband gives to his wife at the time of marriage, whereas the bride's dowry which her father gives her is called *šeriktu* which to be sure likewise means 'a present'. Occasionally (so e. g. Ranke *Babylonian Legal and Business Documents from the Time of the First Dynasty of Babylon*, Nos. 84, 33 and 101, 13) *nuḍunnū* is used for the 'dowry', and this usage is met again in Talmudic literature in the corresponding *nedunya* (see Marcus Jastrow, *Talm. Dictionary*, p. 878a)—applied to the wife's dowry from her father. The term is no doubt borrowed from Babylonian phraseology. As a survival of marriage by purchase, we have a third term *tirḫatu* which, originally given to the father or to the widowed mother, is afterwards 'tied' to the wife's 'girdle', as the phrase runs (see Schorr, *Altbabylonische Rechtsurkunden*, p. 293, and the references there given), and settled upon her by the father or husband. The purchase price appears to have become a mere formality in the course of time, as we may conclude from the sum of one shekel being named in a document as the *tirḫatu* (Schorr, *ib.*, No. 36),

her, he may take, but he has no claim on the house of her father.²⁹

27

If a woman enters a man's house³⁰ as a widow³¹ and removes³² her minor³³ son of her own accord³⁴ from the house of her brother who brought him up, but no document of his adoption had been drawn up, he does not receive any share from the estate³⁵ of the one who reared him³⁶; nor can one take him as a pledge³⁷ (for debt). From the estate³⁸ of his parents he receives the share due to him.³⁹

though in other instances the amount given (19 shekels, Schorr No. 1, and 4 shekels, *ib.*, No. 3) indicates the *gradual* shading over of the 'purchase price' to a money dowry for the wife. By special agreement, according to Babylonian usage (Schorr, *ib.*, No. 1), the *tirbatu* may revert to the wife in case of divorce. We thus have four terms that must be distinguished from one another (1) *nudunnū*, the obligatory gift of the husband at the time of marriage, (2) *dumāku*, 'act of grace' or any voluntary gift given by the husband after marriage, (3) *šeriktu*, the gift of father to bride, and (4) *tirbatu*, originally purchase price and then the marriage settlement on the wife.

²⁹ The phrase used is *a-na šá bīt a-bi-šá la-a i-ka-ar-ri-ib*, i. e., 'he is not to draw near to anything which is of the house of her father,' by which is clearly meant that he has no claim on his father-in-law's property, merely because his wife has chosen to live there.

³⁰ I. e., remarries.

³¹ (*al-*)*ma-at-tu* (= *almantu*) like Col. 4, 71. Cf. the corresponding Hebrew term '*almānāh*.'

³² *na-ša-a-at*, more literally 'plucks away'.

³³ Read *šá ur-da*, from *ridū* 'lead', i. e., one whom one leads, to designate a small child. *Riddu*, from this stem is one of the terms for 'offspring' (Muss-Arnolt, *Assyrian Dictionary*, p. 956b.).

³⁴ *il-ti-šá*, as above §§ 8 and 23.

³⁵ *bītu*, 'house', in the sense of 'estate', as in the preceding paragraph.

³⁶ I. e., from the boy's uncle.

³⁷ *hu-bu-ul-li* is the common word for 'interest', but the original meaning of the underlying stem appears to be 'to pledge', as in Biblical Hebrew. The meaning 'interest' would therefore be a derived one, pointing to the view originally taken of 'interest' as a 'pledge' for the return of the debt in full. In fact, what became interest on a debt may originally have been partial payment in lieu of the whole, so that each payment actually diminished the amount of the debt. The intent of the paragraph is to provide that the boy is not to be held as a pledge for the debt of his uncle, since he was not legally adopted and therefore does not belong to him. It is clear from this restriction, that adopted as well as natural sons could be pledged for debt, as well as wives and daughters.

³⁸ Again *bītu*, 'house'.

³⁹ *ki-i ka-ti-šú* 'according to his share'. See Text No. 2, § 1.

28

If a woman enters her husband's house,⁴⁰ her dowry⁴¹ and whatever she removes from her father's house or what her father-in-law upon her entering gave her, is free⁴² for her children. The children of her father-in-law may not touch it,⁴³ and if her husband repudiates her,⁴⁴ then he may give it to his children, according to his pleasure.

29

If a father brings to the house of the father-in-law of his son⁴⁵ a gift of anything that may be carried,⁴⁶ the daughter is not thereby pledged⁴⁷ to his son; and if there is another son whose wife is retained in the house of her father,⁴⁸ and (the son) dies, then the wife of the dead son is handed over as a possession⁴⁹ to his other son.⁵⁰

(Or) if the master of the daughter,⁵¹ whose daughter has received

⁴⁰ I. e., marries him and lives in his house.

⁴¹ *ši-ir-ki-ša*, for which see above to § 25, note 28.

⁴² *za-a-ku*—here used in the sense that the mother has the sole right to will such possessions to her children. So also in the Hammurabi Code, § 150, which specifies that the mother may will it to any child, but not to any brother of hers. It must remain in her husband's family. Presumably, the same liberty was granted the wife in Assyria, though the code does not specify this.

⁴³ *la-a i-ḫar-ri-bu* as above § 26, etc. Her brothers-in-law have no claim upon what her father-in-law has given to her.

⁴⁴ *i-bu-ak-ši* from *abāku* 'overthrow', here in the sense of 'cast aside'. In case of divorce, therefore, the dowry and all gifts are retained by the husband, though in trust, as would appear, for his children among whom he may distribute such property in any way that he likes.

⁴⁵ I. e., a betrothal gift for the prospective daughter-in-law.

⁴⁶ The phrase is intended legally to define what constitutes movable property.

⁴⁷ *ta-ad-na-at* from *tadānu*. The gift of the father-in-law, though a part of the formal betrothal rites, still customary in the modern Orient (see notes 60 and 61, to § 41 below), yet does not pledge the prospective father-in-law to give his son to the girl if certain circumstances should arise, nor is the father of the girl absolutely pledged by such a gift to give his daughter to the young man. The case is different (§ 30,) if the young man makes a betrothal gift to his prospective wife.

⁴⁸ I. e., the wife is separated from her husband and lives with her father.

⁴⁹ *a-na a-ḫu-zi-ti*, i. e., for marriage.

⁵⁰ I. e., the son, despite the betrothal gift, must marry his deceased brother's widow.

⁵¹ *bēl marti*—here intended clearly as a synonym for *abu* 'father'. He is the *bēl bīti* 'master of the house', as he is elsewhere designated.

the gift is not willing that his daughter should be pledged by it,⁵² he, (i. e., the father of the young man), is free to take away the gift which had been brought to his daughter-in-law,⁵³ (and) to give it to his son. And if he chooses, whatever has been given—in lead, silver, gold, or anything except food, the capital thereof he may take back.⁵⁴ As for food—he has no claim upon it.⁵⁵

30

If a man sends a gift⁵⁶ to the house of his father-in-law⁵⁷ and his wife dies, and if his father-in-law has other (daughters) and the father-in-law is willing, he may marry⁵⁸ another daughter in place of his dead wife, or he is free to take back whatever money⁵⁹ may have been given (sc. to the wife). Grain or sheep

⁵² I. e., he does not wish his daughter to be regarded as pledged by the gift and desires to be free to break the betrothal, which is entirely a matter between the parents of the prospective pair.

⁵³ *kal-la-a-su* = *kallatsu*. *Kallatu* is the ordinary term for bride (as in Hebrew) and then for daughter-in-law, as the bride of a man's son. To her own father, the bride remains the 'daughter', as her father continues to be the *bēl marti*. The underlying stem of *kallatu* designates the wife as the one 'shut in'. Similarly the Sumerian term *E-ge-a*, is 'the one shut in in the house'. She is 'kept' (as the term runs throughout the Assyrian Code) either in the house of her husband, or, if separated from her husband, in the house of her father.

⁵⁴ I. e., the father-in-law has a claim on the *capital* of any gift that he may have sent, if the girl's father does not wish his daughter to be pledged by the betrothal gift. He is not entitled, however, to interest on anything which (like food) may be used.

⁵⁵ Any food sent by a man to his prospective daughter-in-law was intended to be eaten. It is therefore put on a par with interest on which the father-in-law has no claim.

⁵⁶ *zu-bu-ul-la-a*, which, as a betrothal gift of the prospective husband, constitutes a definite pledge to marry the girl, in contrast to the gift of the father of the young man which is not an irrevocable pledge.

⁵⁷ I. e., for his prospective wife living in her father's house.

⁵⁸ *iḫ-ḫa-az*, 'takes', i. e., he marries the deceased wife's sister. By the betrothal gift of the prospective husband to a girl, the latter is viewed before the law as a wife, even though she dies before marriage had actually taken place.

⁵⁹ *Ku-babbar*, 'silver', here used as in the Hammurabi Code, or 'money'. The use of the term is purely conventional, just as the Latin 'pecunia' became a general term for 'money', without reference to its original meaning as possessions in cattle.

or any kind of food is not given back to him⁶⁰; (only) money he receives back.⁶¹

31

If a woman is retained in the house of her father, her gift⁶² which was given to her, whether she takes it [to the house]⁶³ of her father-in-law or does not take it, cannot⁶⁴ serve as an asset⁶⁵ [after the death (?)]⁶⁶ of her husband.

32

(Very fragmentary, with the exception of the closing lines. The paragraph likewise deals with the status of the woman living in the house of her father, whose husband has died⁶⁷ and who has no children. Apparently, if there are no other brothers, she is given to her father-in-law as a possession.⁶⁸ The closing lines read: 'If her (husband)⁶⁹ and her father-in-law have died and she has no son, she has the status of a widow⁷⁰ and may go wherever she pleases'.)

33

If a man marries⁷¹ a widow, without drawing up a formal

⁶⁰ I. e., actual food sent to be consumed is not to be returned if the prospective son-in-law does not wish to marry a sister of his deceased bride. He is pledged by any betrothal gift to marry the girl, but not one of her sisters.

⁶¹ I. e., only cash gifts are to be given back.

⁶² *a-na nu-du-nu-ša*. So the traces at the beginning of the badly preserved line. On *nudunnū*, the marriage gift of her husband, see above, § 25 note 29.

⁶³ So evidently to be supplied in the gap.

⁶⁴ Read [*la-a na*]-*aš-ši*.

⁶⁵ *hu-bu-ul-li* as above, § 27,—as a pledge for debt. A creditor of her husband has no claim on it.

⁶⁶ According to the traces [*ar-ki-ū mi*]-*i-ta*.

⁶⁷ Read [*ú mu-ut-sa me*]-*it mārē* [*la-a i-ba*]-*aš-ši*. That there are no children follows also from the closing lines.

⁶⁸ *a-na e-mi-ša a-na a[hu-zi]-ti i-id-dan-si*—as in note 49. I. e., the father-in-law must marry her, which reminds us of the Judah-Tamar episode in Genesis, 38.

⁶⁹ Read [*mu-ut*]-*ša*.

⁷⁰ *al-ma-at-[tu] ši-i-it*, i. e., her legal status is that of a widow, and the law regarding widows takes its course. The bond with the family into which the girl has married is dissolved if, at the time when her husband died, there are no brothers, and the father-in-law is no longer living.

⁷¹ Literally, 'takes'.

contract and for two years she is retained in his house, that woman need not leave (sc. the house).⁷²

34

If a widow enters the house of a man, whatever she brings along⁷³ belongs to her husband, but if the man goes to the widow,⁷⁴ whatever he may have brought,⁷⁵ all of it belongs to her.

35

If a woman is retained in her father's house, albeit that her husband had placed a house at her disposal for shelter,⁷⁶ but her husband has gone to the field⁷⁷ without leaving her oil, wool or clothing or any produce or food or anything, and does not bring her any produce from the field, that woman for five years must be faithful to her husband,⁷⁸ and not go to live with any (other) man; whether there be children, who are hostile⁷⁹ (to her) and have withdrawn themselves (?),⁸⁰ that woman must be faithful to her husband, (and) not go to live with any (other man); or whether there be no children, she for five years must be faithful to her husband, but on the approach⁸¹ of the sixth year she may

⁷² I. e., Living with a man for two years constitutes what we would call a common-law marriage. According to the Hammurabi Code, § 128, the formal contract is essential to constitute a woman as a legal wife, but perhaps this was not meant to apply to marriage with widows.

⁷³ *na-ša-tu-ú-ni*, i. e., transfers from her home to the man's house.

⁷⁴ I. e., goes to live with the widow.

⁷⁵ *na-aš-šu-ú-ni*. The assumption in both instances is that there is no formal marriage by means of a contract. The widow is a free agent and can live with a man without becoming his possession by virtue of a contract. She can dispose of her property if she takes the man into her house and has a claim on what he brings, but if she goes to live with the man in his house, she forfeits the claim to what she had before taking this step.

⁷⁶ *a-na ba-at-ti*, from the verbal stem *bātu*, 'to shelter', from which we get *bītu* 'house'. The case is that of a woman who is separated from husband because of non-support.

⁷⁷ I. e., has gone away.

⁷⁸ *pa-ni mu-ti-ša ta-da-gal*, 'the face of her husband she is to look up to'—a phrase indicating that she must be faithful to her husband. See Muss-Arnolt, *Assyrian Dictionary*, p. 240a.

⁷⁹ *in-na-ku-ú-ru* from *nakāru*, 'to be hostile'.

⁸⁰ *e-ik-ku-lu* from *kalū* 'hold back', i. e., do not support her.

⁸¹ *i-na ka-ba-a-si*, 'at the threshold,' from *kabāsu*, 'to tread'.

go to live with the husband of her choice.⁸² Since her husband upon going away has never come near her, she is free⁸³ to take another husband.

(Or) if he delays for a term of five years of his own accord without coming near her, or a distaste (?)⁸⁴ for the city has seized him and he has fled, or he is taken as a rebel⁸⁵ and detained,⁸⁶ (or) on his going away a woman takes hold of him who gives herself (to him) as his wife, and he takes her as his wife;⁸⁷ (or) if the king sends him⁸⁸ to another country and he delays for a period of five years and his wife has remained faithful to him, and has not lived with any (other) man⁸⁹. But if within⁹⁰ the five years she goes to live with (another) man, and bears (him) children, to her absent husband has not been faithful according to the contract,⁹¹ then she must take him⁹² back and as for her children, he (i. e., the second husband) takes them.⁹³

⁸² Literally, 'of her heart', i. e., she may take another husband.

⁸³ *za-ku-at*, i. e., free to decide. It is a clear case of desertion.

⁸⁴ *ka a-li*, 'distaste of the city', corresponding to the phrase *ali-šú i-zi-ru-ma in-na-bi-tu*, 'he hated his city and fled' in § 136 of the Hammurabi Code which forms a parallel to this section of our law. Note that as in our text, so the Hammurabi Code adds 'and fled'. By the side of *ališú izir*, it has also the synonymous phrase 'he deserts (*id-di*) his city and flees'. For the underlying stem of *kā* ('to spit out' and then 'despise') see Muss-Arnolt, *Assyrian Dictionary* 901b. Perhaps one *a* has dropped out, so that we should read, *ka-a*.

⁸⁵ Read *sa-ar-[ri]*.

⁸⁶ Read *ú-ta-aḫ-[ḫa-ar]*.

⁸⁷ I. e., he comes across some woman and he marries her. We must supply that in that case his wife is likewise free to take another husband, since it is a clear case of desertion.

⁸⁸ *il-ta-par-šú* from *šapāru*.

⁸⁹ Supply that in that case she is also free to marry, on the assumption that her husband is dead.

⁹⁰ *i-na pa-ni*.

⁹¹ *aš-šum ri-ik-sa*, literally 'because of the contract', i. e., in view of the contract. The marriage contract is meant which probably stipulated that the wife must remain faithful, etc.

⁹² *a-na šú-a-šá*, meaning the first husband.

⁹³ While there is a certain ambiguity in the text owing to the frequent shifting of the subject of the verb, the context as well as the comparison with the Hammurabi Code points to the children of the second marriage remaining as the second husband's property. Desertion is treated in the Hammurabi Code in §§ 133-136, all dealing with the case of the husband being captured. According to the first three paragraphs, if the husband has left maintenance in the house, the wife has no right to go to another man, and if she does,

36

If a man divorces⁹⁴ his wife, if he chooses he may give her something, and if he does not choose, he need not give her anything and she goes away empty-handed.⁹⁵

37

If a woman is kept (in the house of) her father and her husband divorces her, any voluntary gift⁹⁶ that he has bestowed upon her, he may take, but on her marriage settlement⁹⁷ which she brought with her he has no claim⁹⁸; it is free⁹⁹ for the woman.

38

If a man has given another man's daughter¹⁰⁰ to a husband,¹

she is drowned ('thrown into the water'—not a river ordeal, but actually drowned). If the husband has not left maintenance for his wife, then the latter if she goes to another man and bears him children must—as in our Code—go back to the first husband upon his return. The children from the marriage with the second husband belong to the second husband. The woman, however, receives no further punishment, since the first husband left no maintenance for her. If, however, (§ 136) the husband deliberately deserts his wife who thereupon marries another, the husband on his return cannot take his wife, because, as the text adds, 'he took a distaste for his city and fled'. There is no specification of any time limit in the Hammurabi Code.

⁹⁴ *e-iz-zi-ib*, from *ezēbu*, 'forsake'—likewise in the Hammurabi Code the term for divorce §§ 137–141 and 148.

⁹⁵ *ra-ku-ti-e-ša*.

⁹⁶ *du-ma-ki*, as above, §§ 24–25.

⁹⁷ *ti-ir-ḫa-ti*. See note 28 to § 26. Our passage is conclusive evidence that by the time of the Code the 'purchase price' for the wife had become the marriage settlement, devised for her by her father.

⁹⁸ *la-a i-ḫar-ri-ib* as in §§ 26, 28, etc.

⁹⁹ *za-a-ku*, i. e., entirely at the disposal of the woman and free of any claim to be made upon it.

¹⁰⁰ Literally, 'one who is not his daughter'. The case is that of a girl held for a debt contracted by her father and who has been handed over by him to a third party as a wife. According to § 47, this cannot be done without the consent of the father if he is living, and if the father be dead, the opportunity must be given to one of her brothers to redeem her, before the creditor can give a pledged girl to a man. Our law assumes that whatever formalities are necessary have been fulfilled, and takes up the question what the husband must do upon receiving the girl from her father's creditors.

¹ *a-na mu-ti*, used for 'husband' throughout this Code.

her father having been at some previous time² a debtor³ for a transaction,⁴ at the settlement⁵ of a former business partnership,⁶ he (i. e., the husband) must go (and) pay against the pledging⁷ of the girl the price⁸ of the girl. If he cannot give the pledge,⁹ then the man¹⁰ takes¹¹ the one pledged.¹²

But if she is living in misery,¹³ she is free¹⁴ to any who rescues her¹⁵; and if the one who takes the girl¹⁶, be it that a document

² *šum-ma pa-ni-ma*, 'if formerly', detailing how the girl came to be held, because at some period in the past her father had contracted a debt which he could not pay.

³ *ḫab-bu-ul*—(occurring again § 47) 'the pledgor', clearly the term for the debtor—as against *bēl ḫubulli*, 'the owner of the pledge', i. e., the creditor.

⁴ *ḫi-i ša-par-ti*, occurring again § 43 and Text No. 6, obv. 8 and 14. In the latter two passages *šapartu* is used in contrast to *kaspu*, 'money' or cash, from which we may conclude that *šapartu*, literally 'a shipment', from *šapāru*, 'to send', designates a business transaction in products or property as against a money loan or other cash transaction.

⁵ *še-šū-bat*, st. constr. of *šešubtu* from *ašābu*, 'to dwell, settle', etc., is the exact equivalent to our 'settlement'.

⁶ *um-mi-a-nu pa-ni-ū*. On *ummiānu* (also Text No. 6, rev. 21 and 25) as a business partnership, see the passages in Schorr, *Altbabylonische Rechtsurkunden*, Index s. v. p. 557.

⁷ *ina ēli ta-di-na-a-ni*—the latter a substantive formation in *anu* like *naikānu*, 'adulterer' (above § 22), *amirānu*, 'eye witness' (Text No. 1, § 46) and *aḫizānu*, 'the taker' in our law, (see note 16), from *tadānu*, to give as security and the like. *Tadinānu* is, therefore, the object or person pledged.

⁸ *šimū*, 'price,' i. e., the market value of the girl. The husband, who thus receives a girl as his wife, must pay her value to the one from whom he takes her and who had held her as a pledge or security for a debt remaining at the time of a dissolution of a business partnership.

⁹ *a-na ta-da-a-ni la-aš-šū*, more literally: 'it is not to him to pledge,' i. e., he has not the wherewithal to take over the pledge, i. e., the girl.

¹⁰ I. e., the one mentioned at the beginning who held the girl as a pledge for her father's debt. Presumably the father is dead (see § 47), and there was no brother to redeem the girl or none willing to do so.

¹¹ I. e., he retains the girl or takes her back from the husband.

¹² *ta-di-na-na* as above, note 7, i. e., the girl as the one pledged.

¹³ *i-na lum-ni*, a very general phrase to indicate bad treatment on the part of the one who held her for debt, though possibly the husband who obtains her by paying her market value is meant.

¹⁴ Read *[za]-ku-al*, i. e., she may be rescued by anyone.

¹⁵ *mu-bal-li-ṭa-ni-šā*, literally, 'who restores her to life', an interesting expression for the rescuer.

¹⁶ Read *a-ḫi-za-a-[nu šā]-a Sal*, 'the taker of the girl.' See on the formation above, note 7.

is drawn up for him¹⁷ or that a claim is put in for him,¹⁸ settles¹⁹ for the price of the girl, the one pledged²⁰ [is taken away (?)].

39

The first 15 to 20 lines of this law, which deals with the manner in which women of various grades and classes should appear on the street, are badly preserved. So much, however, is clear that the law begins by setting forth that married women and unmarried daughters 'when they go out in the highway'²¹ are to appear with their heads [covered].²² The same applies to a third class of women—perhaps 'concubines' (*šugetim*), who are mentioned in the Hammurabi Code §§ 137, 144–145 and 183–184 by the side of the chief wife. There is a further specification in regard to daughters who should be veiled,²³ —perhaps those betrothed—whether in street dress²⁴ or in [house (?)] garments.²⁵

¹⁷ *ul-ta ru-ú-šu = uštaru-šu*.

¹⁸ Read *ru-gu-[um-ma]-a ir-ti-ši-ú-[ni-e-eš-šu]* (cf. § 53, Col. 8, 14) 'they grant a claim for him'.

¹⁹ Read *ú-šal-lim*, 'he makes good', as against *i-šal-lim*, 'he pays'.

²⁰ One would have expected *ta-di-na-a-na [i-lek-ki]*—i. e., 'he (the rescuer) takes', but the reading is *ta-di-na-a-nu* in the nominative case which, therefore, demands a verb in the passive sense. It is possible, however, that *nu* is a slip for *na*. In any case the meaning is perfectly clear that the rescued girl goes to the rescuer upon his redeeming her by paying her market value.

²¹ Read *ša a-na ri-be-ti [ti-il-la-ku-ú-ni]*. The beginning of the sign *ti* is visible. Cf. ll. 57 and 59.

²² The verb is broken off. We must supply *la-a pa-at-tu u-ni*, 'not uncovered' or some such form as *kuttumūni* from *katāmu*, 'cover'. Cf. the description of the night as the *kallatum kuttumtum*, 'the covered bride' (*Maḳlū* Series, ed. Tallqvist, 1. 2)—pointing incidentally to the custom of covering or veiling the bride. At all events, the context points clearly to the statement that the women are to go about with covered heads.

²³ Read *pa-as- [šu-na-at-tu-ú-ni]*, followed by *kaḳḳad-si-na [la-a pa-at-tu-ú-ni]* i. e., they must be both veiled and with their heads covered. The covering of the head does not refer to a hat or bonnet, but means that women must conceal their entire head by a drapery, as is still the custom in parts of Syria and in Tunis, Algiers and Morocco. See the illustrations in Ploss-Bartels *Das Weib* (9th ed. Vol. 1, pp. 527 and 531).

²⁴ *Ku (= lubuštu)* 'ša ri-be-ti', 'dress of the highway'.

²⁵ Specification broken off. It is reasonable to conjecture that, by way of contrast, house garments were mentioned.

When the text again becomes legible (after two entirely effaced lines), it reads as follows:

.....she need [not]
be veiled.²⁶ In the daytime when on the highway²⁷.....she
goes about, she is to veil herself. The captive woman,²⁸ who
without the mistress [of the house]²⁹ goes about on the highway,
is to be veiled. The hierodule³⁰ who is married³¹ to a man is to

²⁶ Read [*la-a up-ta*]-*aš-ša*-[*an*], as in lines 57 and 65 of col. 5, from *pcšānu*, which, in the meaning of 'conceal', occurs in the Babylonian text of the Behistun Inscription, line 102 (*tapiššinu*, 'thou coverest up'; see Muss-Arnolt, *Assyrian Dictionary*, p. 815b). The frequent occurrence of this stem in our law and in various forms (*tu-up-ta-aš-ša-an*, *pa-aš-šu-un-ta*, *i-pa-aš-ša*, *u-pa-aš-ša-an*, etc.) leaves no doubt as to the meaning 'to veil'. We are perhaps to supply ['when in the house,] she need [not] be veiled'.

²⁷ *i-na ri-be-ti*, equivalent to our 'in public'. What class of women are here referred to who are to be veiled in the daytime on the highway, but otherwise not, can unfortunately not be determined, because of the break in the tablet—perhaps the widow, for whom, as we have seen, there was a special legislation, e. g. §§ 33-34.

²⁸ *e-si-ir-tu*, i. e., the woman captured in war for whom, it will be recalled, special provision is also made in the Deuteronomic Code, Dt. 21. 10-14. According to our Assyrian Code, a man may recognize the captive woman as his wife (§ 40), just as according to Deuteronomy he is urged to legitimize a captive woman as his wife; and though free to dismiss her, if he no longer cares for her, he cannot sell her. The position of the *esirtu*, not actually married to the master of the house, would correspond to the modern 'mistress'. She would be required to go veiled in public, to mark her as the property of a man.

²⁹ Read *bēlūt bīti*, as in § 23.

³⁰ *ka-di-il-tu* = *ḳadištu*, 'the sacred one', the well-known name for a class of temple prostitutes or hierodules. According to our Code, the *ḳadištu* could either be married or unmarried. The Hammurabi Code, on the other hand (§ 181), assumes that Nu-Gig (= *ḳadištu*, Brünnow No. 3017), like the Nu-Maš (= *zermāšitu*, see Meissner, *OLZ* 8, p. 358), as a rule remains unmarried, for it stipulates that these two classes of votaries receive their 'dowry' from their father just the same. See examples of a *ḳadištu* holding property in her own name in Schorr, *Altbabylonische Rechtsurkunden*, Nrr. 182 and 280. If the translation of *i-na ir-ši-ti-šá*, 'at her betrothal', in No. 211. 6, is correct, she could also marry; and this is confirmed by the statement in a school text furnishing extracts from a Sumerian Code of Laws (*VR* 25. 10c-d), which takes up the case of a man marrying a *ḳadištu*, despite her status. The *ḳadištu* appears to act frequently as a wet-nurse, e. g., Schorr, Nos. 78 and 241, where 'hierodules' appear as witnesses in a case involving the fee to be given to a wet-nurse. From this, we may also conclude that the *ḳadištu* could marry or could become the mistress of the priest, as intimated by Herodotus, 1. 181. 'The priestess of Marduk', likewise mentioned in the

be veiled on the highway. The one who is not married is to have her head uncovered on the highway.³² The unclean³³ [woman] is to be veiled, the harlot³⁴ is not to be veiled; her head is to be uncovered.³⁵ Whoever sees a veiled harlot shall seize her.³⁶ He shall summon witnesses and bring her to the palace.³⁷

Hammurabi Code, § 182, might also be married, as Schorr, No. 280. 14, shows, but the Nin-An ('woman of a god'), another class of votaries who live in cloisters, it would appear from the Hammurabi Code, § 127, must remain virgins, as one may also conclude from § 110, prescribing severe punishment for a Nin-An who enters a wine-shop, which was the brothel in Babylonia and Assyria.

³¹ *šá mu-tu iḫ-zu-ši-ni*, 'whom a man has taken', sc. as a wife, *aḫāzu* being the regular term for taking in marriage.

³² Since she does not belong to any man, she need not be marked as a warning to those who might approach her.

³³ *la-a-tu*, see Muss-Arnolt, *Assyrian Dict.* p. 464b. Because of the demon of sickness or of uncleanness within her, she must warn those whom she encounters not to come near her, as the leper in the Priest Code (Lev. 13. 45) must go uncovered of head, but cover his upper lip and cry 'unclean, unclean'.

³⁴ Kar-lil = *ḫarimtu* (Brünnow, No. 7745) is the common 'woman of the street', as she is called in a Sumerian Code (Lutz, *Selected Sumerian and Babylonian Texts*, No. 102, col. 2. 12). She is not a hierodule as Langdon renders (*Journal of the Royal Asiatic Society*, October, 1920, p. 506).

³⁵ *ḫaḫḫad-sa pa-at-tu*—which shows that the phrase in the Priestly Code usually translated 'to let the hair of the head go loose' means rather that she is not to go 'covered of head'. So in Num. 5. 18, the case of the woman suspected of adultery—who is for the time being put on a plane with the harlot—must have her head uncovered, while undergoing the ordeal to determine her guilt or innocence. The harlot is to be marked by being both unveiled and uncovered of head. The veiling of women which can now, through our Code, be traced back in the East to the middle of the second millennium, appears to be the custom introduced by a more advanced society and as a protection to the master of the household, so that every one may recognize his wife and his daughters and his mistress as his possessions, and forbidden to everyone else. Hence the harlot as belonging to everyone must not veil herself or cover her head. The veiling naturally leads to the introduction of the social factor. The veil becomes the distinguishing mark of the mistress of the house and therefore slave girls marked as such in other ways are not to be veiled. For a further discussion of this law with its bearings on Biblical passages mentioning the veil, and on the custom of veiling in Mohammedan countries, see an article by the writer on 'Veiling in Ancient Assyria' to appear in the *Revue Archéologique*.

³⁶ Read *i-ša-ba-as-si* = *iṣabat-si*, as shown by the parallel *i-ša-ba-at-si* (line 90). The sign *ša* has dropped out or has been omitted by Schroeder.

³⁷ *a-na pi-i ēkal-lim*, literally, 'to the entrance of the palace'.

Her finery³⁸ they shall not take away, (but) the garment in which she is seized shall be taken away.³⁹ She receives 50 lashes, and pitch⁴⁰ they pour on her head. And if a man sees a harlot veiled and lets her go,⁴¹ (and) does not bring her to the palace, that man receives 50 lashes, his *batikan*⁴² (and) his garment are taken away. His ear they pierce,⁴³ boring it with a drill⁴⁴ and attaching it (i. e., the lobe) to the back⁴⁵ (sc. of the ear) and he must perform one month's royal service. Slave girls are not to go veiled.⁴⁶ If one sees a maid veiled, one must seize and bring her to the palace. They cut off her ear, and the garment in which she is seized is taken away.⁴⁷ If a man sees a maid veiled and lets her go, does not seize her and does not bring her to the palace, they seize him

³⁸ *šū-ku-ut-ta*, 'precious, costly' (Muss-Arnolt, *Assyrian Dictionary*, p. 1035a), here seems to refer to the harlot's ornaments.

³⁹ I. e., she is probably exposed.

⁴⁰ *ki-ra-a*, for which Hommel long ago suggested 'pitch' (Muss-Arnolt, *Assyrian Dictionary*, p. 432b). Since pitch was used for caulking, the term also acquired the force of 'caulking' in the sense of filling up with pitch. So in the Deluge Story (Gilgamesh Epic XI, 66).

⁴¹ *ú-ta-aš-šar* (also line 95) from *ašāru*, which among many meanings also has the force of 'let go', and from which the intensive form *uššuru* means to 'release, acquit', etc., as used in our code, e. g., § 4.

⁴² *ba-a-ti-ka-aḥ-šū* (so also to be supplied in line 104) is an implement of some kind made of iron (Muss-Arnolt, p. 206b) but exactly what is meant is hard to tell—perhaps a sword, or possibly the ornamental stick (like a mace-head) which, according to Herodotus, I. § 195, every freeman carried.

⁴³ *ú-pal-lu-ú-šū*, from *palāšu*, 'to pierce'.

⁴⁴ *i-na ib-li*, evidently designating the boring instrument.

⁴⁵ *a-na ku-tal-li-šū*. The pierced lobe of the ear is bent back and attached with an awl to the back of the ear. This is apparently done to disfigure the individual. The piercing alone without the attaching of the lobe to the back of the ear occurs in our text, § 43, as a punishment for the one who retains an Assyrian man or woman in his house for debt. The 'boring of the ear' in the Covenant Code (Ex. 21. 6) and in the Deuteronomic Code (Deut. 15. 17) for the slave who declines to accept his freedom, must have been originally a form of branding the slave. Perhaps a clay tag was attached to the pierced lobe, identifying the slave. The Biblical law which proposes to modify the law of slavery by limiting slave service (in the case of Hebrews) to a period of six years—practically an indenture—retains the old custom of thus branding slaves, but limits it to slaves who decide to remain with their master.

⁴⁶ Because belonging to a lower class of society. Slave girls no doubt were distinguished in some other way, perhaps by a tag attached to the ear or by a brand on the forehead.

⁴⁷ As a female slave, she is not supposed to have any finery.

and determine his guilt. He receives 50 lashes. They pierce his ear, boring it with a drill (and) attaching it [to] its [back] (sc. of the ear). His [*batikan*]⁴⁸ and his clothing [are taken away];⁴⁹ [he must perform]⁵⁰ one month's royal service.

40

If a man places⁵¹ his captive woman⁵² veiled among five (or) six⁵³ of his companions' (and) in their presence veils her⁵⁴ and says 'she is my wife',—then she is his (legal) wife. The captive woman, who in the presence of men⁵⁵ is not veiled, and her husband does not say 'she is my wife'—is not a (legal) wife; she is a captive⁵⁶ woman. If the man dies and there are no children to his veiled wife,⁵⁷ the captive⁵⁸ children are regarded as (his) children.⁵⁹ They receive their share.

41

If a man on the day of blessing (?)⁶⁰ pours oil on the head of a

⁴⁸ The traces point clearly to [*ba-ti*]-*ka-an-šú* as above, line 82.

⁴⁹ So the traces as above, line 80. ⁵⁰ So to be filled out as above, line 87.

⁵¹ *u-še-ši-ib*, or as we would say 'introduces her'. ⁵² *e-si-ir-tu-šú*.

⁵³ Expressed by the numeral five, followed by six without any connecting particle. To introduce a veiled woman to five or six individuals is equivalent to a public announcement of her status.

⁵⁴ *u-pa-ša-an-ši*. ⁵⁵ *šabē*, 'soldiers', but used for men in general as in § 18.

⁵⁶ *e-si-ir-tu-ú-ma ši-i-it*, i. e., her status is that of an *esirtu*. She is the man's mistress, not his legal wife.

⁵⁷ I. e., his legitimate wife.

⁵⁸ *es-ra-a-ti*, plural of *esirtu*, i. e., the children of the captive mistress.

⁵⁹ I. e., as the legitimate heirs.

⁶⁰ *i-na ūmi ra-a-ki*—an obscure phrase. The act here referred to of pouring oil on a man's daughter appears to be some ceremony performed by the father on a prospective daughter-in-law, marking his acceptance of the marriage agreement which, in accordance with custom, was arranged by the parents of the young couple. The pouring of the oil might be a form of blessing to symbolize the hoped-for fertility from the union. But what is the *rāku* day? According to IIR 36, No. 3. 72, *ra-a-ku* is entered as an equivalent of the Sumerian *Sar*, which has such meanings as 'blessing, fertility, increase, offspring,' and the like (see Brünnow, Nrr. 8218; 8226-8228; 8231-8232, etc.). Tentatively, therefore, one may assume that the phrase stands in connection with the blessing of the prospective bride by the father-in-law. Among the Moroccans to this day, there are special designations for the days marking the betrothal ceremonies, as the 'day of finishing' and 'the day of fulfillment', etc. See Westermarck, *Marriage Ceremonies in Morocco*, p. 31. At all events, the ceremony of anointing the head of the bride constitutes a symbolic acceptance of the marriage arrangement, after which the engagement can not be revoked.

man's daughter, or in a *šakultu* brings products (?)⁶¹ there can be no revocation.⁶²

42

If a man, be it that he pours oil on the head⁶³ or brings products(?), and the son for whom she was intended as a wife dies or flees; he is to give her to anyone whom he pleases among his remaining sons from the eldest to the youngest whose years are 10.⁶⁴ If the father dies, and the son for whom he had intended (sc. the girl) as a wife dies; any son that there may be of a deceased son whose years are ten marries her⁶⁵; and if at the end of ten years

⁶¹ Even more obscure is the second symbolical ceremony here described. To judge from the context, the *šakultu* is a receptacle in which something is carried to the bride, while the word that follows *hu-ru-up-pa-a-ti* (pl. of *huruptu*) would represent gifts of some sort. The only meaning we have for the underlying stem *harāpu* is 'to pluck, tear' and the like (gathered from a Syllabary, S^c. 222; Muss-Arnolt, p. 339b), from which we get *harpu* 'harvest time' (cf. Hebrew *hōreph*). The most plausible guess, therefore, is that *huruppāti* are field products, offered to the bride—perhaps again as a symbol of the hoped-for fruitfulness of the union. Such gifts form part of the betrothal ceremonies among the Moroccans of the present time. See Westermarck *ib.* pp. 33, 43, 45, 47, etc. (wheat, butter, flour, sugar; also sheep).

⁶² *lu-ur-ta la-a ú-ta-ar-ru*, literally: 'a revocation they cannot revoke'—the term used being the same (from *tāru*, 'return, restore,' etc.) which is elsewhere in the Code used for restitution, e. g., § 2. The two ceremonies represent the agreement on the part of the prospective father-in-law to the marriage. Hence the obligation resting on the latter—as set forth in the next law—to provide a husband for the girl from among his sons, if the son intended for the girl dies before the marriage takes place.

⁶³ Sc. 'of a man's daughter,' as in the previous paragraph. Note that *ina ūmi rāki* and *ina šakulti* are omitted in this abbreviated description of the ceremony.

⁶⁴ Note the construction, '(a son) who has his ten years', as in Hebrew 'a son of ten years'. The age of ten is, therefore, the minimum age of betrothal for the young man. Early betrothals—even before the age of puberty—are still customary in the East. See, e. g., Lane, *Modern Egyptians*, 1, p. 214 (betrothals at 8 or 7 years of age), Westermarck, *Marriage Ceremonies in Morocco*, pp. 34-48. 49, and Ploss-Bartels, *Das Weib* (9th ed. Leipzig, 1908), 1, pp. 698, 702, 704, etc. The point of our law is that the prospective father-in-law is obliged to provide a husband for the prospective daughter-in-law, after the ceremonies described have been performed.

⁶⁵ *ih-ha-az*—the usual term for 'marriage' as above pointed out. The case assumed appears to be that there are no brothers of the deceased prospective husband living, in which case one of the grandsons must marry the girl, provided he is of age, i. e., 10 years old.

the sons of any son are (still) minors,⁶⁶ the father of the girl may, if he pleases, give his daughter (in marriage),⁶⁷ and, if he pleases, he may make recompense⁶⁸ by agreement⁶⁹; and if there is no (other) son,⁷⁰ whatever may have been received in money(?)⁷¹ or anything except food,⁷² the capital⁷³ (thereof) is to be returned, but any food is not to be returned.

43

If an Assyrian man or an Assyrian woman⁷⁴ is retained⁷⁵ for a transaction,⁷⁶ whatever its amount,⁷⁷ in the house of a man,

⁶⁶ *ši-iḫ-bi-ru* 'are small'—still too young to be betrothed. The father of the girl need not wait any longer if he has a chance to marry off his daughter.

⁶⁷ I. e., to any one of these minors, despite their minority.

⁶⁸ *tu-ur-ta . . . u-ta-ar*.

⁶⁹ *a-na mi-it-ḫa-ar*, which apparently means that the relatives of the one to whom the girl was betrothed must be recompensed for the failure of the marriage agreement.

⁷⁰ I. e., no brother of the deceased prospective husband or no grandson.

⁷¹ The text has *Na*, the sign for 'stone', used as a determinative before stones and metals, but which acquired a more general sense to designate any inorganic substance, as against the sign for 'plant' for organic substances of any kind. In legal phraseology *Na* appears to have been applied to any metal used in coinage, 'lead, silver or gold', as is more specifically indicated in another passage in the Code, § 29 (col. 4, 37).

⁷² As above in §§ 29–30, it is assumed that food given to anyone is for consumption and is not to be reckoned as a betrothal gift that may under certain circumstances be taken back. This would tend to confirm that *ḫuruppāti* (above, note 61) at all events include food products as is the case in Moroccan betrothal ceremonies.

⁷³ *kakkad* as in § 29.

⁷⁴ The specific references to Assyrians in the Code (see above § 23, col. 3. 46) and Text No. 6 obv., 20, in Schroeder's volume and No. 143 (Pl. 89, obv. 8) are of interest as showing that there was not in Assyria 'one law for the native and the stranger', which is the ideal in the Priestly Code (Ex. 12. 49; Num. 9. 14).

⁷⁵ I. e., as a pledge. From this passage it appears that men as well as women were held as hostages for debt, though the purpose of the law is to prevent Assyrians from being so held. Hence the severe punishment meted out to those who committed the crime. The law, however, does not apply to wives, minor sons and unmarried daughters who could be thus pledged—whether Assyrians or not—by the husband and father, and retained by the creditor.

⁷⁶ *ša-par-ti* as above § 38 (also Text No. 143, obv. 7).

⁷⁷ *am-mar šīmi-šū*, i. e., for the amount of the transaction.

the full amount is taken away,⁷⁸ and he is obliged to give a quit-tance.⁷⁹ They mutilate his ear by boring.⁸⁰

44

If a woman is pledged⁸¹ [to]⁸² her husband who has been captured by an enemy, and she has neither father-in-law nor son,⁸³ for two years she must remain faithful to her husband.⁸⁴ (But) during these two years she may go and testify that she has not had any support and that she is a dependent(?) upon the palace.⁸⁵ She

⁷⁸ I. e., the creditor as a fine forfeits the value of the transaction by order of the court.

⁷⁹ *i-na-at-tu i-ba-aḫ-ka-an*. My translation rests on the interpretation of *ibakkan* as a denominative verb of *bukanu*, which is of frequent occurrence in sale documents dealing with slaves or real estate, to indicate that the transaction is legally concluded. The phrase in business documents reads: 'he has handed over the *bukanu*'. (See the passages in Schorr, *Altbabylonische Rechtsurkunden*, s. v., p. 516.) The ideographic designation (Giš) Gan, shows that the *bukanu* was a utensil of some kind (cf. Ungnad, *Zeits. für Assyriologie*, 23, p. 88) used as a symbol and serving, therefore, as a formal recognition of the transaction. If the *bukanu* was (as is generally assumed) a 'staff', we would have an analogous practice in the *lex salica* to which B. Fehr, *Hammurapi und das Salische Recht*, p. 40, called attention. But whatever the symbol was, it served as a receipt, and our verb (the intensive form points to its being a denominative) is therefore to be taken in the sense of a legally completed transaction. Literally, therefore, 'It is proper (or obligatory) that he (sc. the offender) should hand over the *bukanu*'.

⁸⁰ *u-ḥap-pa*, from *ḥipū*, 'destroy'. On the boring of the ear, see above § 39.

⁸¹ *ta-ad-na-at*, Permansive 3d person fem. from *tadānu*, which we encountered above, § 29. The woman is betrothed but not actually married.

⁸² Read *a-na*.

⁸³ She is deprived of support by her husband, and has no one to look after her. Her father-in-law, presumably, is dead and she has no offspring.

⁸⁴ *pa-ni ta-ad-da-gal* as above, § 35, to indicate that she is not free to marry until after the expiration of two years.

⁸⁵ The text is defective at the beginning of the line, so that there is a doubt as to the term to be supplied before *ša ekal-lim*, 'of the palace'. Three signs are clear, to wit: *la-i-tu*. The traces of the one preceding *la* point to *kal*. It may be, therefore, that she is designated as 'a bride of the palace', but this is unlikely for two reasons: (1) the meaning is obscure, and (2) we should expect *kal-la-tu*. Furthermore, there is room for another sign before *kal*. The most probable restoration seems to me to be *tuk-kal-la-i-tu* from *takālu*, 'to entrust', designating the woman as one whose charge falls to the state, in view of the fact that she is left without support in consequence of her betrothed's departure. It is assumed that her betrothed has been captured while in the service of the state (*dan-na-at šarri*, 'service of the king', line 82).

has no one⁸⁶ to support her and whose service⁸⁷ she might do. She is a ⁸⁸.....

(At this point and for seven lines the text is defective. There is apparently a reference to the state(?) stepping forward to 'support her' by placing a field and house—presumably the entailed property of her husband for which she is held—at her disposal. She is represented as again 'going' to testify that she has 'no support'. When the text becomes legible it reads as follows:)

The judges immediately(?)⁸⁹... shall ask the magistrates⁹⁰ of the city that they go to the field in that city and turn over⁹¹ the field and the house to be used for her support for two years. She occupies it and they draw up a document for her. Upon the completion of the two years, she may go to live with the man of her choice.⁹² A document for her as of widowhood⁹³ they draw up. If at any future time her lost husband returns to

Another reading which is possible is *suk-kal-la-i-tu*, a feminine adjectival form for *sukkallu* designating a 'deputy'—some one attached to a high official (see Johns, *Assyrian Deeds and Documents*, Vol. 2, p. 88). In any case the term used defines the dependent position of the woman, which is further described in the following line—unfortunately still more defective.

⁸⁶ Read *[la'-aš šá*, 'there is not to her', i. e., she has no one.

⁸⁷ In return for her support. Read *[ši-pa-jar-šu ti-îp-pa-aš*, as in § 45 (col. 6, 108).

⁸⁸ Her status is further defined, but the line is too broken to be restored. The word *hu-ub-ši* (genitive), perhaps 'attached', points to another designation of the deserted woman as dependent upon the state, which must step in to 'support her', as is indicated at the close of the following line—likewise defective.

⁸⁹ Read *ha-šiš*, favored by the traces, the meaning of which fits the context.

⁹⁰ (Lu)Gal (Meš) (= *rabûti*) *šá a-li*, a class of officials often mentioned in legal documents of Assyria. See Johns, *Assyrian Deeds and Documents*, 2, p. 155, for their functions.

⁹¹ *up-pu-šu*, literally, 'to be made', i. e., converted to her use. The expression 'field and house', must be taken in the general sense of property—a dwelling and means of support through a cultivated field—placed at the disposal of the deserted woman.

⁹² Literally, 'of her heart,' i. e., she is free to marry anyone whom she chooses if her husband does not return. The paragraphs in the Hammurabi Code (§§ 133–135) dealing with the captured husband (see above, to § 35) mention no time limit.

⁹³ *dup-pa šá ki-i al-ma-ti*, i. e., she is given the status of a widow, free to marry again. The assumption is that her betrothed from whom she had not heard for two years, is dead.

the land, he may take away from his wife what she may have secured on loan,⁹⁴ (but) on her sons whom she bore to her second husband he has no claim.⁹⁵ Her second husband takes (them). The field and the house which for her support at the full value were deeded (to her) as a loan,⁹⁶ if he (sc. her first husband) was not in the service of the king,⁹⁷ he must refund what was deeded to her⁹⁸ and (then) take (it). But if he does not come back and dies in another country, then his field and his house in place of what the king gave⁹⁹ is to be given.

45

If a woman whose husband dies had not left the house of her husband within a year,¹⁰⁰ and if her husband has not assigned¹

⁹⁴ *a-na ki-i-di*, as above, § 6 (col. 1, 71).

⁹⁵ *la-a i-ka-ri-ib* 'he may not draw nigh' in the sense of having no claim, as above §§ 26, 28, 37, etc. This is in agreement with § 135 of the Hammurabi Code—the case of a woman whose husband (without providing for her support) has been captured and who marries another man and has children through him. She must go back to her husband on his return, but the children belong to their father, i. e., to the second husband. The assumption in §§ 134 and 135 is that the husband has been captured while on 'royal service'—as in our text.

⁹⁶ Again *a-na ki-i-di*, which here is equivalent to our loan. The reference is to the action of the state which had placed the field and house at her disposal for two years for her support.

⁹⁷ I. e., had not gone away in public service, whether to war or on some mission as is assumed in the first part of the law. The phrase used, *a-na dan-na-at šarri*, 'the service of the king', occurs a number of times in the Hammurabi Code, e. g., § 27, which also bears on our law. It reads: 'If a garrison officer or constable returns from the service of the king after they have given his field or his plantation to another, upon his return to the city, they restore to him his field or his plantation and he attends to his business (sc. as before)'. Assuming that this was also the law in Assyria, the man who goes away on private business is at a disadvantage, in being obliged to refund the state for the support of his wife during his absence.

⁹⁸ *ki-i ta-ad-nu-ni*, i. e., he must pay the sum 'pledged' or deeded to her before he can get possession of his property—the field and house.

⁹⁹ His estate falls to the State, in return for the support given her for two years by placing a property at her disposal. It is interesting to note that the king in this Assyrian Code is still looked upon as the source and representative of all governmental authority, but the use of the plural verb (*id-du-nu-ú-ni* with *a-šar šarri*) also shows that the term has become a conventional one for the state or the court as a collective body.

¹⁰⁰ I. e., had not separated from him within a year of his death.

¹ *il-tu-ra-aš-še* (= *išturaša*), 'written for her'.

anything to her, in a house of one of her sons, whichever one she chooses, she may dwell. The sons of her husband are to support² her with her food and her drink³. As to a bride whom one loves they should attach themselves to her.⁴ And if she was a second wife⁵ and had no sons of her own, (with those of) the first wife⁶ she is to dwell. Together⁷ they should support her. If she has sons of her own, the sons of the former wife⁸ may decline to support her. In a house of her own sons, whichever one she chooses, she is to dwell. Her own sons are to support her and she shall do their service.⁹ And if among the sons of her husband, the one who had taken her [to support] her

(The rest of the law—four lines—is broken off. Presumably, it stipulated that if the son in whose house she lived dies, then another son must take his place for the support of the mother. the last word of the law, 'support her', is preserved.)

46

If a man or a woman practice sorcery¹⁰ and they are caught in the act, they seize them and determine their guilt. Anyone who

² *ú-ša-ku-lu-ú ši*, literally: 'feed her'.

³ *ú-kul-ti-ša ù ma-al-ti-sa*.

⁴ *ú-ra-ak-ku-su-ni-eš-še*, from *rakāsu*, 'to bind'. This is the single passage in the Code in which a note verging on a gentle sentimentalism is struck. The sons should treat the widowed mother lovingly and with attachment to her.

⁵ *ur-ki-it-tu*, corresponding to the Sumerian *egirra* in the Sumerian Code (Lutz, *Sumerian and Babylonian Texts*, No. 102, col. 1, 2, etc.) to designate a second wife by the side of the first one.

⁶ *il-te-en-tu* = *ištentu*, 'first'.

⁷ *a-na pu-uḫ-ri-šu-nu*, 'together', i. e., each bearing his share.

⁸ *pa-ni-ti*, i. e., the first wife who may still be living, though the term may also imply that she has died.

⁹ *ši-par-šu-nu* (as in § 44 above), the same expression as in the frequent reference to 'service of the king'. The mother is to render service in return for her support, to assist in the household of the son with whom she lives or in the field.

¹⁰ *kis-pi*, the same term which is used in the second law of the Hammurabi Code dealing with the charge of sorcery preferred against someone and providing a river ordeal for the one suspected, if the charge cannot be definitely established. If he succumbs to the ordeal (i. e., the river-god drowns him), then his property goes to the accuser. If he is proved innocent, he takes the property of the accuser who is put to death. It is characteristic of primitive law everywhere to forbid sorcery and to punish the offender with death. See Post; *Afrikanische Jurisprudenz*, 2. p. 64-67. See also Ex. 22. 17, and the long list of various classes of sorcerers and demons, Deut. 18. 10-11.

practises¹¹ sorcery is to be put to death. A man who witnessed the performance of sorcery, or the one who from the mouth of an eye witness¹² to the sorcery heard him say about them,¹³ 'I saw it', any one who hears¹⁴ (this), must go (and) report it to the king.¹⁵ If a witness who was (supposed) to report to the king denies it, and in the presence of Mercury,¹⁶ the son of the Sun, declares¹⁷ that he did not say so,—he is free.¹⁸ The eye witness¹⁹ who (is reported to have) said so and denies it, the king interrogates him as much as possible and sees his back.²⁰ The sorcerer²¹ on the day that they bring him (sc. to the king) shall be forced to confess, and one should tell him²² that 'from the oath²³ which thou hast sworn to the king and to his son, he (i. e., the king) will

¹¹ *mu-up-pi-ša-na*.

¹² *a-mi-ra-a-ni*, literally: 'the one who saw', an eye-witness.

¹³ About the man or woman suspected of sorcery.

¹⁴ *ša-mi-a-nu* 'the hearer', i. e., 'an ear-witness.'

¹⁵ I. e., either of these two kinds of witnesses (a) the *amirānu*, the direct witness and (b) the *šamiānu*, the one who heard—and therefore an indirect witness—must report the occurrence to the king. This direct reference to the king—and later on in the law also to the king's son (as the heir to the throne)—may be taken as an indication of the antiquity of the law, just as in the Hammurabi Code the section dealing with sorcery belongs to the oldest stratum of the Code. See Jastrow, 'Older and Later Elements in the Code of Hammurabi' (*JAOS* 36, p. 32).

¹⁶ The god Gud ('bull') is the planet Mercury, frequently mentioned in Astrological texts. Mercury as the smallest of the five planets known to the Babylonians and Assyrians and being always near the sun is appropriately designated as the son of the sun-god (Shamash). This reference to 'Gud, the son of Šamaš' occurs again in an omen text, *Cuneiform Texts*, XXVII, 4. 19 (= Pl. 6, 15), describing twins born to a woman, 'with a joint like Mercury, the son of the Sun' (sc. is joined to the sun). It is a case like that of the famous Siamese twins.

¹⁷ I. e., swears.

¹⁸ *za-a-ku*.

¹⁹ *a mi-ra-a-nu*.

²⁰ Exactly what is meant by this phrase is not clear—perhaps 'he dismisses him'.

²¹ *a-ši-pu*.

²² *ū šu-ul i-ka-ab-bi*, i. e., warn him.

²³ *ma-mi-ta*, i. e., the clearance oath.

not absolve thee.²⁴ According to the document which is sworn to the king²⁵ and his son, thou hast sworn.'²⁶

47

If a man who has retained²⁷ the daughter of a man who is his debtor,²⁸ as a pledge in his house, asks her father, he may give her to a man; (but) if her father is not willing he cannot give (her).²⁹ If her father has died, the owner³⁰ must ask among her brothers. To each one of her brothers in turn³¹ he shall speak, and if one brother says: 'I will redeem³² my sister in one month,'—if at the end of the month he does not redeem (her), the master³³ is at liberty, to declare her free³⁴ and to give her to a man.

(Of the rest of the law—18 lines—only partial lines are preserved. The case of a harlot who dies is referred to towards the close.)

48

(The first six lines of this law are badly preserved. From the first line which may be restored as follows:

'[If a man] strikes [the wife of a man],'

the general subject is revealed. There is also an indication in the sixth line that a miscarriage (or a still birth [?]) has taken place in consequence of the blow. The text then continues as follows:)

He must make restitution for human life.³⁵ And if the woman

²⁴ *la-a i-pa-ša-ra-ku-nu*. The sorcerer is to be warned of the consequences of perjury.

²⁵ I. e., the written testimony.

²⁶ *la-am-'a-a-ta*, i. e., the written deposition stands against him, if it is found that he is guilty of sorcery.

²⁷ The girl is held for debt.

²⁸ *ḫab-bu-li-šu*. See above, § 38, note 3.

²⁹ I. e., the father's consent must be given to the girl's being handed over to a third party.

³⁰ *bēlu*, i. e., *bēl bīti*, 'the master of the house', in this case, the creditor.

³¹ *šu-ut*, equivalent here to our 'respectively'.

³² *a-pa-ṭar*. See note to § 5.

³³ Again *bēlu*. See the above note 30.

³⁴ *ú-zak-ka-a-ši*, here in the sense of not being obliged to undergo any further formalities. He can dispose of the girl freely.

³⁵ *nap-ša-a-ti ú-ma-al-la* (referring to what precedes), set forth in the form of a general legal principle, and, therefore, repeated at intervals in the law as a standing phrase, as the result of the blow. Cf. Text No. 2, § 1, *nap-ša-a-ti ik-mu-ur* 'he destroyed human life'. *napšāti* though a plural is used collectively for 'human life'.

dies, they put the man to death. In compensation³⁶ for her (lost) offspring, he must make restitution for human life. And if the husband of that woman has no son, and they strike his wife so that she has a miscarriage, in compensation for her (lost) offspring, they put the one who struck the blow to death.³⁷ And if what was in her womb was a (developed) foetus³⁸, he must make restitution for human life.

49

If a man strikes the wife of a man not yet advanced in pregnancy³⁹ so that she has a miscarriage,⁴⁰ for that guilt he must hand over two talents of lead.⁴¹

50

If a man strikes a harlot⁴² so that she has a miscarriage, blow for blow they impose upon him. He must make restitution for human life.⁴³

51

If a woman with her consent brings on a miscarriage,⁴⁴ they seize her and determine her guilt. On a stake they impale her⁴⁵

³⁶ *ki-i-mu-ú*, 'in place of'.

³⁷ The milder law in § 20, imposing a fine, lashes and public service, applies to a man's daughter. The severer punishment here is for two reasons, (1) it is a man's wife, and (2) there is no male offspring and there may be none in the future, because of injury to the woman.

³⁸ *šu-ḫa-ar-tu*, i. e., 'a little one'—to designate that the woman's pregnancy was advanced to the extent of a developed foetus, close, therefore, to being an actual human life.

³⁹ *la-a mu-ra-bi-ta*, 'not large' through pregnancy, by way of contrast to a woman dropping a *ṣuhartu*, according to the previous instance.

⁴⁰ Afterwards, in consequence of the injury.

⁴¹ The same fine as in § 20, the pregnant daughter of a man, but without the 50 lashes and one month's royal service.

⁴² *Kar-lil* (= *ḫarimtu*) as in § 39; also § 47 towards the close.

⁴³ The law does not specify in what manner. It is hardly to be assumed that in the case of one striking a harlot, the offender is put to death if by a premature birth a human life is lost. The restitution is more probably a fine to be fixed by the court, or by agreement with the woman.

⁴⁴ I. e., by malpractice.

⁴⁵ The Hammurabi Code (§ 153) prescribes impaling for the woman who conspires for the death of her husband.

and do not bury her⁴⁶; and if through the miscarriage she dies, they (likewise) impale her⁴⁷ and do not bury her; and when they curse⁴⁸ that woman because of her miscarriage, they say [to her (?)]⁴⁹.....

(The rest of the law—nine lines—is broken off.)

52

(Of this law only a few signs of the last four lines are left. It likewise dealt with striking a woman, slave girls and perhaps others.)

53

[If a man] takes a virgin from the house⁵⁰ of her father, [and against her will (?)]⁵¹ does not return (her) to him; and if [by force?]⁵² she had not been deflowered⁵³ and had not been handed over⁵⁴, nor held as a claim on the house of her father, any man

⁴⁶ No burial was the worst curse that could be imposed upon any one. It meant that the *eṭimmu*, or shade of the dead, wandered about without a resting place in *Arallu*—the gathering-place of the dead—suffering pangs of hunger and thirst. See the vivid description at the close of the Gilgamesh Epic (Jastrow, *Religion of Babylonia and Assyria*, p. 512).

⁴⁷ I. e., they impale the corpse—a good instance of Assyrian barbarism. See Post *Afrikanische Jurisprudenz*, 2, p. 46, for examples of punishment extended even to the corpse—characteristic of primitive society, though it is worth noting that (as Mr. C. H. Burr informs me) the same punishment was imposed on the corpses of suicides in England till 1823, and their personal property was confiscated till as recently as 1870.

⁴⁸ Read [*i-iz*]-*zi-ru-ú-ši*.

⁴⁹ The form of the curse was presumably given.

⁵⁰ Read [*iš-tu būl a-bi-i-ša*] [*uṣ-bu-tu-ú-ni*].

⁵¹ One hesitates between supplying *a-na bi-ti-ša*, 'to her house', which would make a somewhat awkward construction, and *ina pa-ni-ša* (cf. § 23), in contrast to *ra-ma-an-ša*, 'with her consent', in § 54.

⁵² Are we perhaps to read [*ina-e-mu-ka*], 'by force'? The traces of *ka* are clear in Schroeder's copy.

⁵³ *la-a pa-ti-a-tu-ú-ni*, 'not opened', the general term for the untouched virgin or animal. One is reminded of the law in the fragment of a Sumerian Code published by Clay, *Miscellaneous Inscriptions in the Yale Babylonian Collection*, No. 28, §§ 6-7, where a distinction is made between a girl abducted, but not 'known' (i. e., not raped) and one who was abducted and 'known' or actually seduced.

⁵⁴ *la-a aḥ-za-tu-ú-ni*, 'not taken', i. e., 'not taken by any one as a wife,' here applied to the girl captured, but not actually handed over to some man.

who whether within a city or outside, whether at night on-a highway or at an eating house,⁵⁵ or at a city festival forcibly (?)⁵⁶ seizes the virgin (and) violates her,⁵⁷ the father of the virgin takes the wife of the seducer⁵⁸ of the virgin and gives her to be ravished. To her husband he does not return her; he takes her away (from him).⁵⁹ The father of the ravished girl gives her as a possession⁶⁰ to the seducer. If the man has no wife, then three times the purchase price of the virgin the seducer must give to her father. The seducer who marries her cannot spurn her.⁶¹ If the father does not wish to receive three times the price of the girl,⁶² he may give his daughter to any whom he pleases.

54

If a virgin with her consent gives herself to a man,⁶³ the man must swear an oath (sc. to that effect). On his (sc. the adulterer's) wife⁶⁴ there is no claim. The seducer gives three times the price of the virgin, and the father can do to his daughter what he pleases.

⁵⁵ *bit ka-ri-e-tt*, 'house of feasting', which seems to correspond to our 'restaurant'.

⁵⁶ *ki-i da-'a-a-ni*, an obscure phrase but for which I suggest a meaning 'dúress'. Cf. *di'atu* for 'distress', Ungnad, *Babylonische Briefe*, p. 286.

⁵⁷ *ú-ma-an-zi-e-e-ši*, from *mazû*, 'to press'—an euphemistic term to indicate rape. It is not surprising to find so many terms in Assyrian for sexual intercourse. Modern Arabic is full of them, and in fact most languages have a large variety of such terms—some popular, and some of a literary origin.

⁵⁸ *na-i-ka-a-na* used for the adulterer (above § 22), as well as for the seducer of a virgin.

⁵⁹ A curious and barbarous punishment that the innocent wife of the seducer should suffer for the crime of her husband and be made the victim in the same way as the virgin was victimized, but quite in keeping with the crude application of the *lex talionis* which marks this Assyrian Code.

⁶⁰ *a-na a-ḫu-zi-ti*, 'as a possession'—here, no doubt, in the sense of marriage.

⁶¹ *la-a i-sa-ma-ak-ši* from *samāku*, which from the context, as well as from a passage in an incantation text in which a form of the verb has been found (Muss-Arnolt, *Assyrian Dictionary*, p. 766a), must have some such meaning as 'reject, dispose of,' and the like.

⁶² I. e., he declines to receive the large indemnity which, however, involves his giving the girl to the seducer.

⁶³ I. e., is not taken from the father's house as in § 53.

⁶⁴ *a-na aššati-šú la-a i-ḫar-ri-i-bu*, i. e., the action set forth in the preceding law cannot be followed, in case the virgin willingly gave herself to the man.

(The text—fourteen lines—is mutilated beyond certain recovery. The law continues the general subject of illicit intercourse, and at the close provides that if the suspected woman is ‘released of her guilt,’ the husband by a document gives his wife a quittance.⁶⁵ Apparently, it is added that if he had mutilated his wife’s ear,⁶⁶ ‘there is no guilt attaching to him.’)

This completes Text No. 1 in Schroeder’s publication. If the colophon had been preserved in full, we would be able to indicate the place of the tablet in the series.⁶⁷ All that is left of the colophon, however, is the date according to the custom of the Assyrian scribes, viz.:

The month of *Sarāti* (6th month) 2d day eponymate of
Sa.....u.....

Such dating prevents us from fixing the reign in which the tablet was drawn up, unless we happen to have a list of eponyms in which the name occurs. That is not the case in this instance.

TEXT No. 2.⁶⁸

1

(Beginning mutilated. The subject of the first six laws [covering Col. II and III] is the division of an estate among brothers.)

.....ground⁶⁹
[the oldest son] sets aside⁷⁰ and takes two parts⁷¹ [as his share],⁷²

⁶⁵ *i-ba-ka-an*, as above, § 43.

⁶⁶ *uz-[ni-šá] ú-ḥap-pa*, as above, § 43.

⁶⁷ See the remarks above, p. 4.

⁶⁸ Schroeder, No. 2 (Pl. 14–18) is likewise a tablet of four columns each on obverse and reverse, belonging to the same series as No. 1. It is badly broken. The 1st and 8th columns are entirely gone, and of the other six columns none is complete. Assuming that it contained as many as 55 laws (like Text No. 1), the 18 laws preserved would represent not more than one-third of the tablet.

⁶⁹ *ka-ki-ri* = *kaḫkaru*, ‘ground’, as Col. 5, 19 (§ 13).

⁷⁰ *i-na-sa-ku*. The elder brother has the first claim, for which in Sumerio-Babylonian legal phraseology there is a special term *Sib-ta* = *ēlitum* (Schorr, *Altbabylonische Rechtsurkunden*, s.v., p. 573) as against *Ha-la* = *zittu*, the general term for ‘portion’ or ‘share’.

⁷¹ *ka-a-ta*, ‘hands’, i. e., two shares. Cf. above, Text No. 1, § 27, *ki-i ka-ti-šú*, ‘his share’.

⁷² To be supplied as in Text No. 2, § 2 (line 21) *a-na zitti-šú*.

[and] his brothers afterwards in turn⁷³ set aside and take (sc. their share). From the field any expenditure (?)⁷⁴ and all the outlays⁷⁵, the younger son subtracts (?).⁷⁶ The oldest son sets aside the one part of his share, and in return for his second part⁷⁷ exacts⁷⁸ service to him⁷⁹ from his brothers.

2

If one among the brothers of an undivided estate⁸⁰ destroys⁸¹ human life,⁸² they hand him over to the owner of the human life. If the owner of the human life chooses, he may kill him and if he chooses to be gracious,⁸³ he merely takes away his share.⁸⁴

3

If one among the brothers, of an undivided estate, either [meets

⁷³ *ur-ki a-ḫa-iš*, in which combination the second word has the force of 'brother by brother' and is a variant form to *aḫameš*, 'together'.

⁷⁴ *ši-kil(?) -li mi-im-ma*. *Šikillu*—if the reading is correct,—may be a variant form of *sikiltu*, 'expenditure' (?) (Ungnad, *Babylonische Briefe*, No. 218, 31–32).

⁷⁵ *ma-na-ḫa-a-ti*, plural of *manahlu*, which is of frequent occurrence in legal documents as well as in the Hammurabi Code, (§§ 47 and 49), and has the force of our 'outlay', for the improvements made on a property.

⁷⁶ *uš-sa-ak* for *ušnasak* (?).

⁷⁷ *šá-ni-ti ḫa-ti-šú*.

⁷⁸ *i-ša-al-li* from *šalū*—perhaps in the sense of 'implores' or 'demands'.

⁷⁹ *šú-pur-šú*, 'his work', i. e., his share of the work on the estate, which the brothers must perform at the demand of the older brother.

⁸⁰ *la zi-zu-ú-tu*, i. e., before the settlement is made.

⁸¹ Read *ik-mu-ur* from *kamāru*, a synonym of *dāku*, 'kill' (Muss-Arnolt, *Assyrian Dictionary*, p. 397b).

⁸² *nap-šá-a-ti*, 'human life' as above, No. 1, § 48, which here appears to refer to the household or retinue of the estate, just as in Hebrew the corresponding word has this force, e. g., Gen. 12. 5, 'all the *nefesh* which they had acquired in Harran', i. e., the household. Perhaps the livestock was also included in the general term.

⁸³ *im-ma-an-ga-ar* from *magāru*, 'to be favorable', and the like.

⁸⁴ *a-na zitti-šú*. It rests with the elder brother either to kill his brother, or to pardon him and to take his share—again an illustration of the crude spirit of the Code which regards not the crime primarily, but the property loss involved in a human life, and therefore leaves it optional with the 'owner' to exact punishment or not.

with an accident (?)⁸⁵ or flees, his share falls to the king,⁸⁶ [according to] his pleasure.⁸⁷

4

(This law—likewise dealing with an undivided estate—is too badly preserved to permit of a translation.)

5

(Of this law, continuing the same general subject, only the ends of eight lines are preserved.)

6⁸⁸

(The beginning of this law, revealing in a most interesting manner the procedure in ancient Assyria for disposing of an estate, is broken off. When the text becomes intelligible, it reads as follows:)

....for silver⁸⁹ [a man wishes to acquire], he must agree [in regard to the field and] house, not [to acquire it]⁹⁰ for silver, for one month.⁹¹ The [surrogate]⁹² within the city of Asshur shall cause proclamation⁹³ to be made three times. Three times, he shall cause the field and house which is to be acquired to be proclaimed in the city, to wit⁹⁴: the field and house which

⁸⁵ Text defective. Some phrase, indicating that one of the brothers died is demanded by the context, as a comparison with the above text No. 1, § 42 (col. 6. 22), 'he either dies or flees', shows.

⁸⁶ I. e., as we would say, 'to the state'.

⁸⁷ Read [*ki-i*] *li-ib-bi-i-šú*, i. e., the king may, if he chooses, confiscate the share. It reverts to the state.

⁸⁸ More than one law may be missing between the end of Col. 2 and the beginning of the third column.

⁸⁹ A missing line described the prospective purchaser.

⁹⁰ Read *la-a* [*ú-lek-ki-ú-ni*], favored by the traces.

⁹¹ I. e., there shall be a delay of one month.

⁹² The traces point to [*lù*] *íl* (like lines 28, 31, 36, 40, etc.), an official of some kind—perhaps to be read *kinattu*, if the restoration of the determinative *Lù* before *íl* in *Cuneiform Texts* XIX, Pl. 27 (K 2061, obv. 24) is correct. See Meissner, *Seltene Assy. Ideogramme* No. 4385. The restoration finds support from II Rawlinson, Pl. 48. 3a, where Ner-Gal with the force of 'lord' is likewise equated with *kinattu*. On the other hand, the official designated by *íl* might also be read *maḫrū*, 'first officer' (Meissner *ib.* No. 4386). In any case the ideographic designation having the value of 'to be high', points to an official of high standing, a surrogate charged with announcing and superintending the disposal of estates.

⁹³ *ú-sa-aš-sa* = from *šasū*, 'to call out'.

⁹⁴ *ma-a*, introducing the formal wording of the official proclamation to be made three times during the month, as a notice to all concerned.

belongs to N.N. the son of N.N.⁹⁵ within the confines⁹⁶ of this city, I wish to acquire [for silver (?)].⁹⁷ Whatever their demands⁹⁸ and (whatever) claims there may be,⁹⁹ let them draw up their documents and in the presence of the recorder¹⁰⁰ let them deposit them, and let them put in a claim¹ so as to make it free² to be disposed of.

If within this month, fixed as the time limit,³ they have not neglected⁴ to produce their documents and in the presence of the recorder have deposited them, then the man shall take to the full extent of his field.⁵

On the day that the surrogate(?) makes proclamation within the city of Asshur, one as a secretary(?)⁶ in place of the king, the city scribe,⁷ the surrogate and the recorder of the king shall assemble⁸ to dispose of the field and house within the city. (With) the prefect⁹ and three magistrates¹⁰ of the city standing by, the

⁹⁵ *an-na-na mar an-na-na*, 'this one, son of this one'. See Meissner, *ib.*, No. 7829.

⁹⁶ *A-Gár = ugaru*, a term of frequent occurrence in legal documents, and here used to indicate that the property lies within the confines of the city.

⁹⁷ *a-na [šarpī] (?)*.

⁹⁸ Read *[la-a] -ka-šú-nu*.

⁹⁹ Read *da-[ba]-ab-šú-nu*. Cf. Schorr, *Altbabylonische Rechtsurkunden* No. 149. 16 (*dibbatī*).

¹⁰⁰ *ki-pu-ú-ti*, occurring again lines 24 and 43, evidently designates the office of the recorder.

¹ *li-id-bu-bu*—from *dabābu*, for which see Schorr, *ib.*, p. 372 note.

² *lu-zak-[ki]-ú-ma*.

³ *e-da-nu = adannu*, 'time limit' occurs also in Text No. 143. See Muss-Arnolt, *Assyrian Dictionary*, p. 21a.

⁴ I suggest reading *la-a ma-šá-e* and combining *mašū* 'forget, neglect,' etc., with the following verb—*it-ta-al-lu-ni-en-ni* IV, 2 from *elū*, 'bring up' or 'produce'.

⁵ *a-na si-ir ēkli-šú i-šal-lim*, literally, 'completing to the border of his field', i. e., the purchaser shall acquire the full estate.

⁶ Numeral one, followed by *i-na sukkalli šá pa-ni šarri*, which would appear to designate an official acting as the representative of the king. For officials designated by an introductory *ša*, see, e. g., Johns, *Assyrian Deeds and Documents*, 2, p. 165. The addition of *ina sukkalli* I take as a designation of the secretarial bureau, but the entire passage must remain obscure until we find further references to the office intended in some Assyrian legal document.

⁷ *dup-šar āli*.

⁸ *iz-za-zu*, 'stand'.

⁹ *ba-zi-a-nu*, an official of frequent occurrence in official documents and who appears to have been the prefect. See Johns, *ib.*, Vol. 2, p. 148 *seq.*

¹⁰ Gal (Meš) = *rabūti*, as above, No. 1, § 44.

surrogate shall make the announcement. They shall hand over the documents that have been drawn up.

But if within this month, the surrogate three times makes proclamation, and within this month any one's document¹¹ was not brought, (and) in the presence of the recorder was not deposited, then on the field and house he lays his hand.¹² The one who caused the proclamation¹³ of the surrogate to be made is free¹⁴ to act. Three documents of the proclamation of the surrogate which the judges¹⁵ shall draw up [are to be deposited in the presence of the recorder].¹⁶

(Rest of the law is broken off.)

7

(Only partially preserved. It deals with some wrong committed against an owner of a house, for which a fine of one talent of lead, blows and a month's royal service is imposed, besides handing over twice the value of the house.)

8

If a man extends¹⁷ a 'large'¹⁸ boundary¹⁹ from his companion, they seize him and determine his guilt. He must hand over three times the area of what he has extended.²⁰ One of his fingers is

¹¹ Text has 'his document', meaning the document of any interested party.

¹² *ka-su e-li*, 'raises his hand', in the sense of taking possession, as in § 10 of Text No. 2 (col. 4, 32.)

¹³ *a-na mu-sa-as-si-a-ni* from *šāsū*, for *mušassianu*.—i. e., the one who brings about the proclamation.

¹⁴ *za-a-ku*, i. e., all formalities have been complied with and the estate can be disposed of.

¹⁵ I. e., all the other officials involved.

¹⁶ To be supplied and favored by the traces. Read [*a-na pa-ni ki-pu'-ú-tu [iš-ku-nu-ú-ni]*].

¹⁷ *us-sa-am-me-iḫ*, from *samāḫu*, 'to add'. i. e., enlarges his boundary by encroaching on his neighbor's property.

¹⁸ 'Large' in contrast to a 'small' boundary in the following law must refer to an extensive encroachment as against taking only a small section away from some one.

¹⁹ *ta-ḫu-ú-ma*, the same term that we find in Talmudic jurisprudence, no doubt borrowed from Babylonia. See Marcus Jastrow, *Talmudic Dictionary*, p. 1160b.

²⁰ Literally: 'The field as much as he has extended it, three times (as much) he must hand over'.

cut off; he receives 100 blows²¹ and he must perform one month's royal service.

9

If a man removes a 'small'²² boundary of an enclosure,²³ they seize him and determine his guilt. He must hand over one talent of lead and restore three times²⁴ as much of the field as he extended. He receives 50 blows and must perform one month's royal service.

10

If a man in a field that is not his digs a well and makes a trench(?)²⁵ (and) seizes²⁶ the trench for his well, he receives 30 blows and [he must perform] 20 days royal service.

(Of the balance of the law only the beginnings of the lines are preserved.)

11

(Of this law only the beginnings of the last 12 lines are preserved. It deals with a field, which is shared with an *ummiānu*—apparently a partner as in No. 1, § 38 [col. 5. 29].)

12

If a man in a field [which²⁷] lays out an orchard (and) [digs]²⁸ a well, (and) the owner of the field sees

²¹ The highest number of blows named in the Code. The severity of the punishment shows how seriously this crime was viewed. In view of the frequent denunciation in the Old Testament of those who remove boundaries (e. g., Hos. 5. 10; cf. Deut. 27. 17; Prov. 22. 28), this law of the Assyrian Code is particularly interesting.

²² I. e., only takes a small piece of land away from his neighbor. See note 18 above.

²³ *a-bu-ra-a-ni*, from *abāru*, 'enclosure' (Muss-Arnolt, *Assyrian Dictionary*, p. 9b).

²⁴ So read according to Schroeder's *errata* to his edition (p. xxviii).

²⁵ *du-un-na*, used for a 'couch' or 'bed', (Muss-Arnolt *Assyrian Dictionary*, p. 259b), but here would appear to designate a trench into which the water of the well is allowed to flow.

²⁶ *ka-a-su e-li*, 'he lays his hand', here (as above, § 6, note 12), in the sense of illegally using the trench to fill his well.

²⁷ The ends of the lines in this law are broken off. Evidently the man had no control over the field, but exactly in what relation he stood to it is a matter of conjecture. Perhaps we are to complete the line to *šá-a [a-na za-ka-pi]*, 'a field which was taken for cultivation'. Cf. Hammurabi Code, §§ 60-61.

²⁸ *iḥ-ri* to be supplied as above.

the trees that he (sc. the man) raises without [protesting(?)],²⁹ the orchard is [free]³⁰ for the cultivator.³¹ The field as a field belongs to the owner of the orchard.³²

13

If a man on ground that is not his,³³ cultivates an orchard or digs a well, whether he raises vegetables³⁴ or trees, they seize him and determine his guilt. On the day that the owner of the field goes out (sc. to inspect what has been done),³⁵ he may take away the orchard together with its improvement.³⁶

14

If a man on ground that is not his, breaks it up(?)³⁷ and bakes bricks, they seize him and determine his guilt. He must hand over three times the amount of ground³⁸; and his bricks are taken away from him. He receives 50(?)³⁹ lashes and must perform [one month's]⁴⁰ royal service.

15

[If a man] on ground that is not his⁴¹ and bakes bricks, they take away [the bricks and 50(?)] blows they give him⁴² and he must perform one month's royal service.

²⁹ The word is broken off, but the context points to a term like 'protest', perhaps *la-a ik-bi*.

³⁰ Read *za-[a-ku]*, i.e., he has the right to the crop.

³¹ *na-di-a-ni*, i. e., from *nadû*, the one who cultivated it.

³² I. e., the ground for further cultivation remains in the possession of the original owner of the orchard.

³³ *i-na la-a ka-ki-ri-i-šû*, for *kaḫḫaru*, as above, Text No. 2, § 1.

³⁴ *ur-ki*, 'greens'. We still call a dealer in vegetables a 'green grocer'.

³⁵ The assumption being that he voices his protest in contrast to his silent assent in § 12.

³⁶ *ma-na-ḫa-a-ti-šû*, more literally 'the outlays' on it, for which no compensation need be given.

³⁷ *ig-lu-šû-ma* from *galāšu*, the meaning of which is to be gathered from the context.

³⁸ Sc. that he has used.

³⁹ The text is uncertain. The number may be 40 or 50—more probably the latter.

⁴⁰ To be supplied as the usual phrase in connection with fixed labor.

⁴¹ The verb which would have indicated what the man did in addition to baking bricks is broken off.

⁴² Read *[i-ma]- ḫu-šu-ú-uš*, according to Schroeder's *errata* to his text (p. xxviii).

16

(This law is entirely broken away. If we may assume that it extended into Col. VI, we may conclude from the law following that it dealt with providing irrigation for fields adjoining one another, but it is of course possible that there was more than one law included between Col. 5. 39 and the beginning of Col. 6.)

17

[If it is canal]⁴³ water which is collected among them⁴⁴ into a reservoir for irrigation,⁴⁵ [the owners]⁴⁶ of the fields divide up among themselves,⁴⁷ and each, according to the extent⁴⁸ of his field, does (his) work, and irrigates⁴⁹ his field. But if there is no harmony⁵⁰ among them, the judges⁵¹ ask each one⁵² about the agreement⁵³ among them, and the judges take away the document⁵⁴ and (each) one must do (his) work. (Each) must direct⁵⁵

⁴³ Since in the following law it is 'rain water' which is to be used in common, the natural contrast to be expected here would be water from a canal, which is gathered in a reservoir and thence directed into the fields.

⁴⁴ I. e., by agreement among the owners of adjacent fields. The previous law, no doubt, specified who 'they' were.

⁴⁵ Read [šá a]-na ši-i-ki [a-na šá]-ka-a-ni [il-li]-ku-ú-ni, as in the following law (col. 6. 23). Šakānu would appear from the context to be the term for 'reservoir'.

⁴⁶ Supply [Nin](Meš) = bēlē, as in the following law (col. 6. 24).

⁴⁷ iš-tu a-ḫa-iš.

⁴⁸ a-na si-ir, 'up to the border', as above in § 6.

⁴⁹ i-ša-aḫ-ki from šakū 'to water'.

⁵⁰ ma-ag-ru-tu from magāru, which among various meanings has the force of 'to agree'. Such quarrels among those using water in common, must have been as frequent in Babylonia and Assyria as disputes about wells in Palestine. Cf. Gen. 26. 15-32.

⁵¹ Di-Tar(Meš) = daiānē, 'judges', but here used collectively for 'court' and therefore construed in this law and in the following one with a verb in the singular, as e. g., i-šá-'a-a-al, 'asks', iṣ-ša-bat, 'seizes', in our law, and i-lek-ki, 'takes away' in the following law (col. 6. 34).

⁵² amelu, here in the sense of 'each man'.

⁵³ ma-ag-ru, i. e., what understanding there was regarding the share each one was to perform. There is the same *double entente* in the Babylonian stem magāru as in the English term 'agree', used for 'harmony', and for 'an agreement'.

⁵⁴ dup-pa, i. e., the written agreement among the owners of the fields.

⁵⁵ i-lek-ki, 'take', out of the reservoir and direct into the field.

those waters by himself, and irrigate his field, but any one else's⁵⁶ he is not to irrigate.

18

If it is rain-water⁵⁷ which is collected among them into a reservoir for irrigation, the owners of the fields divide among themselves. Each man according to the extent of his field does (his) work and irrigates his field. And if there is no harmony among them, whatever agreement there may have been among them, the court takes away the document of (each) man, because of the failure to agree.⁵⁸ (The continuation is broken off.)⁵⁹

The balance of the sixth column of the tablet is mutilated and in part entirely broken off. It is not even possible to estimate how many laws are missing—perhaps two. Of the seventh column only the remains of twenty-four lines, comprising two laws, are preserved. Both deal with agricultural matters, showing that the general subject of the previous column was continued.

Of the additional seven fragments of the Code published by Schroeder, while some—particularly No. 6 (Pl. 20–21)—are quite extensive, none is sufficiently preserved to give a continuous text. All therefore that can be done for the present is to indicate the contents of the fragments, so far as this can be determined.

(a) Of fragment No. 3, only parts of seven lines are preserved.

(b) Fragment No. 4 contains portions of five laws. The subject of the first two seems to be injuries, and of the last two, contracts.

(c) Fragment No. 5 contains parts of two laws. The character of the first is uncertain. The second deals with horse herds (*re'u su-gul-li šá sisē*, 'caretaker of herds of horses'). In Assyrian letters, we hear much of furnishing horses for the royal stables and for the army; and we would, therefore, expect stock farms to be introduced into an Assyrian Code.

(d) Fragment No. 6 gives portions of 11 laws. The subjects are, slave girls, the daughter of a man or his wife retained as a

⁵⁶ I. e., in order to avoid further disputes, no work is to be done in common.

⁵⁷ 'Water of the god Adad' = *zunnu*, rain, in contrast, therefore, to the kind of water mentioned at the beginning of the previous law.

⁵⁸ *a-na ēli la-a ma-aq-ru-ú-tu*.

⁵⁹ There is a reference to five magistrates (*rabūti*).

pledge for debt, transactions regarding horses, oxen, and asses; theft, stolen property put on deposit, stolen property restored through a companion.

(e) Fragment No. 7 (No. 143 of Schroeder's edition, Pl. 89) gives portions of four laws covering monetary transactions, individuals held as pledges for debt, and guarantees.

(f) Fragment No. 8 (No. 144 of Schroeder's edition, Pl. 89)—small portion of one law.

(g) Fragment No. 9 (No. 193 of Schroeder's edition, Pl. 107 and 106)—bits of six laws, dealing with agriculture.

[As this article goes through the press, the first volume of Bruno Meissner's very valuable new work, *Babylonien und Assyrien* (Heidelberg, Winter 1920), reaches me, in which, on pages 175–179, he summarizes some of the contents of the new code and discusses a number of the laws. Much to my satisfaction, I find that he confirms Professor Montgomery's supposition above set forth that in the term *šaršēn* (§§ 14 and 19) we have the Assyrian term for 'eunuch' and that castration was, therefore, a form of punishment in Assyria as far back as the date of the Code. I also owe to Meissner the correct interpretation of the verb *tadānu* in the sense of being 'pledged' to marry in § 29 of Text No. 1 (which applies also to § 44) and I have embodied this view, as well as one or two other suggestions derived from incidental references to social conditions as set forth in Chapter XII of Meissner's work dealing with 'The family and daily life'.]